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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Iraq

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights, in accordance with paragraph 14 of Commission resolution 1993/74 of 10 March 1993 and Economic and Social Council decision 1993/279 of 28 July 1993.

ANNEX

Interim report on the situation of human rights in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur

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I. INTRODUCTION

. In accordance with paragraph 14 of Commission on Human Rights resolution 1993/74 of 10 March 1993, as approved by Economic and Social Council decision 1993/279 of 28 July 1993, the present report constitutes the interim report of the Special Rapporteur on the situation of human rights in Iraq. A final report will be submitted to the Commission at its fiftieth session.

. While the Special Rapporteur continues to study the situation of human rights in general and throughout the country, special and urgent matters affecting persons in certain territories, and affecting certain rights, cause the Special Rapporteur once again to focus his attention in his interim report on the situation in the southern marsh area of Iraq and on the enjoyment of economic rights in Iraq. Indeed, the fact that the Special Rapporteur finds it necessary to address in this report precisely the same subjects he addressed in his interim report to the General Assembly at its forty-seventh session (A/47/367 and Add.1) may be viewed as disturbing in itself. However, as detailed below, the Special Rapporteur views with consternation the evidence that the situation in the southern marsh area in particular and the enjoyment of economic rights in general have further deteriorated. Of course, while the Special Rapporteur will focus on these two concerns in the present report, it still must be observed that there are no signs of improvement in the general situation of civil and political rights in Iraq.

. In carrying out his mandate, the Special Rapporteur has examined a wide range of information pertaining to general and specific allegations submitted through testimony and in documentary form, including script and audio and video recordings. In analysing this information, supplemental information has been sought from various sources including scientific institutes. However, direct access to locations within or near Iraq has remained problematic owing to the Government of Iraq's absence of reply to requests for a visit and owing to considerable constraints upon the resources available to the Special Rapporteur.

. Upon the acceptance by the Commission on Human Rights of the Special Rapporteur's recommendation that human rights monitors be sent "to such locations as would facilitate improved information flows and assessment and would help in the independent verification of reports on the situation of human rights in Iraq" (resolution 1993/74, para. 11), and as requested by the Commission in the same paragraph, the Special Rapporteur met with the Secretary-General in New York on 4 May 1993 in order to discuss the means through which such monitors could be promptly put in place once the Economic and Social Council would have approved the Commission's resolution. The Secretary-General promised to do his best in this regard, but pointed at the same time to the scarcity of resources given in response to the other demands on the United Nations including those made by the increasing number of other mandates created by the Commission on Human Rights.

. On 28 July 1993, the Economic and Social Council approved Commission on Human Rights resolution 1993/74. This decision coincided with the Special Rapporteur's receipt of information concerning the arrival in south-western Iran of thousands of Iraqi refugees who were said to be fleeing repression in the southern marsh area of Iraq. Responding to this information, which offered an

important opportunity to interview large numbers of alleged victims of recent (and past) human rights violations, the Special Rapporteur requested authorization for an immediate mission to southern Iran. Unfortunately, the Special Rapporteur's request was refused on the grounds of a lack of financial resources and security considerations. The Special Rapporteur therefore appealed directly to the Secretary-General, who was able to make available additional financial resources to the Centre for Human Rights of the Secretariat for this purpose. Thus, one month after his original request, a mission of two staff members of the Centre for Human Rights, serving in the capacity of human rights monitors and accompanied by two United Nations interpreters, was sent to the area on 27 August 1993 in order to receive testimony from some of the 5,000 refugees who had then congregated along the edges of a dirt dyke running in the middle of the Iranian marshes along the Iraq-Iran frontier. The cooperation of the Government of the Islamic Republic of Iran was appreciated in permitting the mission to take place.

. In order to review the evidence obtained by the human rights monitors during their five-day mission to Iran, the Special Rapporteur visited Geneva on 23 and 24 September. While in Geneva, he received additional testimonies and consulted with other persons of interest.

. In his continuing efforts to increase the information available to him and to investigate allegations he has received, the Special Rapporteur travelled on 8 and 9 October to London, where he met with a wide range of persons and received supplementary information in documentary, photographic and video form. Additional information, including testimonial evidence, has since been received by the Special Rapporteur in The Hague.

. In an effort to obtain direct access to the locations where violations are alleged to have occurred, and are alleged to be still occurring, the Special Rapporteur has repeated his request to the Government of Iraq for a visit to the country. On 30 September 1993, the Special Rapporteur addressed the following letter to the Minister for Foreign Affairs of the Republic of Iraq:

> "I have the honour to refer to Commission on Human Rights resolution 1993/74 of 10 March 1993 by which my mandate as Special Rapporteur on the situation of human rights in Iraq was extended for a third year. For your convenience, please find herewith a copy of Commission resolution 1993/74. As you may know, at its most recent session in July 1993 the Economic and Social Council approved Commission resolution 1993/74 which, inter alia, envisages my visit to all parts of your country including the northern area. Consequently, I hereby request the cooperation of your Government in facilitating such a visit.
>
> "By this correspondence, I should also like to express my grave concern over reports and specific allegations of serious human rights violations which I have received in recent weeks pertaining especially to the southern marsh area of your country. In particular, it has been alleged that there has been, and continues to be, a displacement of thousands of marsh area dwellers from their traditional habitat due to the draining of the marshes combined with the pollution of remaining waters such that the inhabitants are without sufficient food or potable water. In addition, I have received detailed allegations of widespread and

indiscriminate bombardments of civilian communities within the marsh area which, coupled with allegations of arbitrary arrests and detentions, have caused many people to flee for safety and fear of persecution. Consequently, in order to enable me to benefit from an examination of the reported situation in situ, I would consider it most desirable to visit the areas where these events are said to be occurring.

"As I continue to study the situation of human rights in Iraq, I am of course aware of the Government of Iraq's submissions to United Nations human rights and related forums. However, in endeavouring to accord full consideration to your Government's views, I should like to reiterate that I continue to hold myself at your disposal for continuation of the dialogue on which we embarked in 1991. To this end, I would welcome your Government's reply to this correspondence at its earliest convenience."

In the light of subsequent reports of a most alarming nature (see below), the Special Rapporteur addressed a second letter, dated 28 October 1993, to the Minister for Foreign Affairs of the Republic of Iraq:

"I have the honour to refer to my letter of 30 September addressed to Your Excellency concerning my mandate under Commission on Human Rights resolution 1993/74 of 10 March 1993. By that correspondence, I expressed my grave concern over reports and specific allegations of serious human rights violations relating especially to the southern marsh area of your country. In addition, I requested your Government's cooperation in facilitating my visit to your country as envisaged by Commission resolution 1993/74.

"In the light of continuing reports of serious human rights violations said to have recently occurred in the southern marsh area of Iraq, I hereby reiterate my request for a visit to Iraq, especially the southern marsh area. Moreover, given the alarming nature of the reports received, I would particularly appreciate an early response to this request."

. As the Special Rapporteur awaits the response of the Government of Iraq to his requests for a visit to the country, and as he awaits the allocation of sufficient resources to enable even a minimal implementation of paragraph 11 of Commission on Human Rights resolution 1993/74 concerning human rights monitors, the Special Rapporteur continues to study the general situation of human rights in Iraq. His final report to the Commission will again address the breadth of human rights obligations carried by the Government of Iraq. In the meantime, the present report, addressing the situation in the southern marsh area and the situation of economic rights, reflects information at the disposal of the Special Rapporteur through 4 November 1993.

II. THE SITUATION IN THE SOUTHERN MARSH AREA

A. Introduction

. The Special Rapporteur has previously addressed the situation in the southern marsh area of Iraq in his reports to the General Assembly at its forty-seventh session (A/47/367, paras. 7-16 and 28; and A/47/367/Add.1, paras. 15-23, 34-35, 45, 53 (e) and 56) and to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/45, paras. 114-130). His initial alarm related to reports of military attacks on civilian settlements, forced relocation of the indigenous tribal people, the imposition of an effective internal economic blockade, and an enormous water diversion project that threatened the environment through the drainage and destruction of the marshes. In his interim report, which in his opinion merited a special and early submission to the General Assembly in August 1992, the Special Rapporteur called for immediate steps to be taken "before too much irreparable damage is done and too many individuals are victimized" (A/47/367, para. 4). More specifically, the Special Rapporteur called upon the Government of Iraq to cease its repressive activities, especially the military attacks then being made against its civilian population, and called for the water diversion project to be stopped pending an independent and comprehensive environmental assessment, and for a team of human rights monitors to be sent immediately to the region. In relation to the latter recommendation, the Special Rapporteur developed in some detail his idea for the sending of human rights monitors to Iraq (ibid., paras. 17-26).

. In part two of his interim report submitted to the General Assembly in November 1992 (A/47/367/Add.1), the Special Rapporteur focused on the specific problems relating to the economic and social rights of the Marsh Arabs. While he fully understood that the military actions still being conducted against the people at that time constituted an immediate threat to their persons, he chose to address the particular effects of Government policies infringing upon the people's access to basic foodstuffs and health care and to address the overarching effect of the water diversion projects which threatened to destroy the traditional lifestyle of these tribal peoples. In connection with the unique lifestyle of the Marsh Arabs, attention was drawn to the Government of Iraq's obligations under article 27 of the International Covenant on Civil and Political Rights concerning minority protection, and under International Labour Organization (ILO) Convention No. 107 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, to which Iraq is a party.

. In his last report to the Commission on Human Rights in February 1993 (E/CN.4/1993/45), the Special Rapporteur brought to light the existence of a document found in an Iraqi security office in northern Iraq in March 1991 entitled "Plan of Action for the Marshes", detailing a programme of what would constitute serious human rights violations against the people of the region. This document, viewed in the light of the continual receipt of disturbing allegations of serious human rights violations corroborated by other testimonial and documentary evidence in the form of photographic and video recordings, was reproduced in full in the report of February 1993 (ibid., annex I, document No. 18). The specific violations which were addressed by the Special Rapporteur concerned the civil rights to life and security of person, including due process of law, the economic rights to food and health care, and the social and cultural

rights relating to the maintenance of the Marsh Arab community which is so integrally linked to the protection of the marsh environment in which they live. The Special Rapporteur concluded that the Government of Iraq was responsible for serious violations of the human rights of the Marsh Arab people and he reiterated again his call for the sending of human rights monitors to the country, including the southern marsh area.

B. Violations of civil rights

. Allegations received by the Special Rapporteur concern serious and widespread violations of almost all civil rights. In particular, there are persistent allegations of violations of: the rights to life, liberty and security of person; the freedoms from arbitrary arrest, detention, and torture or cruel, inhuman or degrading treatment or punishment, together with the right to due process of law; and freedom of movement. According to reports and testimonies received, these allegations relate especially to three governmental tactics: (a) indiscriminate bombardment of civilian settlements and arbitrary killings; (b) arbitrary arrest and detention of suspected "criminals", "deserters" and "infiltrators"; and (c) forced displacement. In fact, in relation to the basic thrust of these allegations, the Government of Iraq has acknowledged that it has been conducting significant military activity "of one kind or another" in the region which it has consistently justified as a police action based on the "duty to eliminate the intimidation and criminality that find a safe refuge in the difficult terrain of the marshes" (see letter dated 9 September 1993 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General (A/48/387-S/26424, annex)).

1. Bombardment of civilian settlements and arbitrary killings

. While the Special Rapporteur has received reports and specific allegations of summary and arbitrary executions within the marsh area, the most consistent violation of the right to life is said to stem from the continuing bombardment of civilian settlements resulting in the death of large numbers of innocent persons, including women, children and the elderly. Despite the imposition at the end of August 1992 of a "no-fly zone" against Iraqi Government aircraft flying south of the thirty-second parallel, allegations indicate continuing [redacted] and even intensifying [redacted] assaults by means of ground-to-ground artillery.

. Reports of artillery bombardment of civilian settlements have been received by the Special Rapporteur on an intermittent basis since he was first appointed in June 1991. He now has lists of allegedly destroyed villages and tribal settlements numbering almost 200 and located in many parts of the vast marsh area. However, there was a noticeable increase in the receipt of allegations of bombardments in the recent summer months, indicating an intensification of the military campaign. In fact, as described below, the increase in the number of these allegations coincides with the receipt of allegations that extensive areas of the marshes had become dry and were thus more susceptible to the movement of heavy equipment including artillery pieces and tanks. Reports state that this was the case.

. Aside from the regular receïpt of allegations through second and third parties concerning bombardments ïn the region, the Special Rapporteur received numerous and consistent testimonïes from refugees who arrived in south-western Iran in July and August 1993. Numbering in the thousands, these persons claimed almost universally to have been subjected to indiscriminate bombardments, both many months ago and in the recent past. They alleged that, while many persons had become somewhat used to bombardments dating to the early years of the Iran-Iraq war (when army deserters were said to have first taken refuge in the marshes in large numbers), the bombardments against their communities had recommenced after the March 1991 uprisings and had increased during the summer of 1993 as the marshes dried and the military forces could gain better access to Marsh Arab settlements.

. As a general matter, refugee testimonies consistently stated that bombardments could take place at any time of the day or night, without any warning, but often occurred during mealtimes or at night when most people would be at home. Sometimes the passing of military patrols (on land or by boat) would precede bombardments, leaving the victims to believe that they had been knowingly and specifically targeted.

. Specific allegations from refugees who claimed to be eyewitnesses or victims include events said to have occurred in 1992 and 1993. With respect to the former, testimonies were received from survivors of an attack alleged to have taken place on 23 May 1992 in the village of Al-Agar in the central Amara Marshes. The testimonies were received from members of families who at the time of the attack were conducting a wedding ceremony. Many other villagers were said to be present at the open-air event. According to the very specific and virtually identical testimonies, a helicopter flew over the village, circled two or three times above the assembly and then fired two rockets directly at the people. Between 20 and 30 people were said to have been killed, including the groom and his mother, while tens more were injured. Among the survivors interviewed were: a young man who had lost his left arm, his father, uncle and aunt; a young man whose sister and uncle were killed; and an injured little girl who lost her father and aunt. Aside from the terrible nature of this alleged attack, the Special Rapporteur draws particular attention to this allegation because the convincing testimonies corroborate specific reports that the Special Rapporteur had received from second-hand sources in 1992 concerning the same incident.

. An example of a testimony recounting a bombardment of civilian settlements in recent months is that said to have occurred towards the end of June 1993 in the Al-Hammar Marshes close to the apparently now dry area of Al-Sulaymiyyah. During the course of a four-day bombardment, armoured vehicles and tanks were said to have begun shelling from a distance before sweeping into the area and razing the houses. As a different example, another witness claimed that his reed house had been burnt down four times between 1983 and the summer of 1993: artillery (or helicopters, prior to the imposition of the "no-fly zone") allegedly shelled his village, destroying homes and setting fires. With no place really to go, the witness simply stated that he rebuilt his house each time; none of his family was killed, but neighbours were injured, including one little boy who was presented by the witness still carrying a piece of shrapnel lodged in his skull. When the marshes became dry and the bombardments intensified in the summer, the witness stated that he finally felt compelled to

flee. Several other witnesses stated that regular artillery bombardments caused the burning of many of the dry reed houses constructed by the Marsh Arabs. As a result of these bombardments, many witnesses carried physical wounds, including lost limbs. Many children had lost one or both parents: the recently arriving refugees had an especially high number of orphans among them. Almost all refugees demonstrated the psychological effects of the constant bombardments: one five-year-old boy among the refugees, said to be suffering from "shell-shock", stopped walking and speaking after an artillery attack in March/April 1993 near Al-Medaina.

. In the absence of the Government of Iraq's response to the Special Rapporteur's request to visit Iraq including the areas where the bombardments are said to have occurred, and in the absence of that Government's cooperation in accepting the stationing of human rights monitors or other independent parties in the region, the Special Rapporteur sougnt and received confirmation of the destruction of various villages by means of clear aerial and satellite photography. Videotapes submitted by non-governmental groups also contain impressive evidence of widespread destruction. Specifically, the videotapes in the possession of the Special Rapporteur show the complete destruction (alleged to have taken place in recent months) of what appear to be several small and large settlements, with animal carcasses strewn about, artillery craters visible on the dry land, scores of reed houses burnt to the ground, and many mashhoofs (the unique boats of the Marsh Arabs) splintered and sunken in the shallow waters. Aerial and satellite photography further indicates the existence and normal functioning of a marsh village in March 1993 and then its utter decimation some months later. Similarly, aerial and satellite photography corroborates reports and testimonies alleging fires caused by artillery bombardments directed both at villages and at the dried reed-beds upon and from which the settlements are built. Further corroborating evidence is found in the fact that, while refugees were being interviewed in Iran just four kilometres from the Iran-Iraq frontier at the end of August 1993, explosions could be heard in the far distance coming from the Iraqi side of the frontier [redacted] explosions said by the refugees to be attributable to Iraqi artillery.

. Perhaps the most alarming reports received by the Special Rapporteur relating to arbitrary bombardments allege the use of "chemical weapons" during attacks in the region of Um al-Ghag and the Abu Zergi marshlands near Basrah at the end of September 1993. These most disturbing allegations recount the observation of billowy "white smoke" resulting in the sudden death of several persons and animals, along with effects to the flora in the specific area. However, to date the Special Rapporteur has been unable to obtain corroborative evidence supporting these allegations.

. Apart from the allegations of indiscriminate bombardments of civilian settlements, the Special Rapporteur has also continued to receive allegations of other arbitrary killings and extrajudicial executions of persons either in the southern marsh area or taken from the area. Concerning the former, general reports have been received stating that all persons are at risk of arbitrary killing on the mere suspicion of being a "criminal" or "deserter", or of harbouring or assisting criminals or deserters. In this connection, the Special Rapporteur previously noted the existence of a Decree of the Revolution Command Council of 21 December 1992, which grants members of the Arab Baath Socialist Party and "popular patrols" impunity should they find it necessary to injure or

kill persons in the course of "conducting security and observation missions" (E/CN.4/1993/45, para. 181). However, perhaps more ominous than even this bold decree, it is to be observed that the social character and history of the Marsh Arab people has always been to offer humanitarian assistance (shelter and food) to passers-by and refugees ▮ actions which could easily be interpreted as "harbouring or assisting" unspecified "criminals", "deserters" or "infiltrators". Should such an interpretation be made, and there appears to be no rule of law impeding Baath Party members or other Government forces from making such arbitrary determinations, then virtually every person within the area would be at risk of death. Witnesses interviewed in south-western Iran allege that this kind of interpretation has been generally made. According to testimonies received, troops have entered villages after bombardments and burned down remaining houses with or without allowing the people time to leave. One witness, who admitted to being an Army deserter, recounted how the Army had come one day and set explosives to his house and then destroyed the whole village as punishment for his desertion. Witnesses uniformly affirmed that, should anyone resist these actions, they would be killed immediately. Another witness told how he watched a friend get shot in his house when the Army came one day and indiscriminately sprayed several houses of the "accused" village with bullets.

. With regard to extrajudicial executions, several witnesses stated, at first, that many people had been "executed". Upon further questioning, it very frequently turned out that persons had been forcibly arrested and had since disappeared: in the absence of further news, it was assumed that those arrested had been executed. In fact, almost no witnesses stated that they had seen executions (as opposed to arbitrary killings) take place in the marshes. More commonly, and in corroboration of reports received concerning executions said to have occurred north of the marshes, witnesses claimed that people had been taken to detention centres in the cities or as far away as the Radwaniyah and Abu Ghraib prisons in Baghdad. Some persons interviewed, claiming to have been victims of arbitrary arrest in the marsh area and then arbitrarily detained in city security centres or in the Baghdad prisons, gave accounts of extrajudicial executions in the detention centres.

2. Arbitrary arrest and detention, and due process of law

. Reports indicate that the people of the southern marsh area live in constant fear of arbitrary arrest and detention. It is further stated that in the course of arrest and detention persons are subjected to harsh treatment while denied access to virtually any form of judicial process. These reports have been corroborated through the convincing testimonies of numerous persons. As a result, there appears to be a widespread, if not universal, fear of governmental authorities in the region.

. Reports indicate that all forces of governmental administration are responsible for arbitrary arrests and detentions. Reports and testimonies received refer, with no particular emphasis, to various police forces: the Army, Military Intelligence, General Intelligence, Security and Special Security. Large numbers of security checkpoints are said to have been placed in and around the towns and cities of the region, and non-apparent temporary detention centres are said to have been established by Special Security forces in a variety of locales. Military patrols are said to move in and out of the

marsh areas effecting arrests of civilians when and as they feel inclined. While the general basis of arrest ostensibly resides in the accusation of "criminal", "deserter" or "infiltrator", a frequent basis of arrest, particularly of women, is said to be the accusation of "smuggler" stemming from civilian efforts to bring basic foodstuffs and medicines to their families, who have been cut off from other access because of official prohibition or requirements relating to official identification cards which Marsh Arabs generally do not possess.

. The matter of possession of valid identification cards, including monthly ration cards, places Marsh Arabs in a particularly vulnerable position because they typically have never had identification cards (owing to their unique lifestyle situation) or because valid ration cards have not been distributed to them. Consequently, persons accused of "smuggling" who are unable to prove their innocence immediately may be subjected to arrest and detention or may simply have their goods confiscated without legal process. It has been further reported that such arrests, detentions and simple confiscations have increased markedly as the waters in the marshes have decreased and as fish and animal stocks began to die as a result of the declining quantity and deteriorating quality of the water. It is to be noted that the offence of smuggling may result in the death penalty.

. Testimonies received from refugees arriving in south-western Iran during the summer of 1993 corroborated the allegations recounted above. In addition, witnesses stated that arrests were frequently effected during and immediately after bombardments of marsh settlements: Government forces would capture inhabitants trying to escape the shelling, while other troops would enter the villages and arrest survivors as the troops also set fire to reed-beds and remaining houses. The great majority of arrests, however, were said to occur in the towns and cities around the marsh area. Witnesses provided names of family members, friends and neighbours who had been arrested during the past year in the towns or cities. Refugees reported witnessing large-scale arrest campaigns also said to have occurred in the cities. For example, one witness reported observing the arrest of almost 100 persons in one part of the city of Basrah on 26 August 1993, apparently because those arrested could not present valid identification or military cards and were therefore suspected of being "deserters" or "criminals". Other refugees recounted observing similar arrest campaigns conducted by the Army and Security forces in areas of towns and cities that had been isolated for the purpose. Market areas were said to be especially vulnerable to such mass arrests when Army and Security forces would from time to time surround the markets and arrest the young men with or without checking their identification cards. Women, children and elderly persons were also said to have been taken from the markets. Specific accounts were given of widespread arrests in the cities of Amara and Basrah during the month of Muharram (Gregorian calendar: 20 June to 19 July 1993). In one case, four bus-loads of young men were said to have been arrested by Army and Security forces in the Hananiyah area of Basrah during the early morning of 7 Muharram (Gregorian date: 26 June 1993). Another report recounts how a restaurant owner and all his clientele present in the restaurant were arrested in Amara.

. Refugees also stated that in the course of flight they were particularly susceptible to arrest. Restrictions on free movement could add to the bases of accusations of "criminal" activity and thereby result in arrest and detention.

For example, testimonies were received from relatives concerning the arrest of a grandmother, mother and two babies in mid-July 1993 as they were travelling to a prearranged family meeting place east of the Tigris River from which the family was to flee to Iran. To avoid attention, the family moved in two groups: one group of four women with two babies, and another group of three men. However, Security forces were said to have stopped the group of women at a bus station in Al-Qurna, arresting two of them together with the babies. It was thought that the Security forces were suspicious of the fact that the women were carrying clothes and other personal belongings with them. The rest of the family successfully fled to Iran where they were interviewed; they believe that those arrested were taken to Basrah and eventually to Baghdad.

. The allegation that persons arrested are taken to the main cities and then transferred to detention centres and prisons in central Iraq, especially Baghdad, was frequently given in testimony. This testimony, including accounts from persons who said that they had themselves been arrested and transferred to such detention centres before their subsequent release, corroborates other reports of the same nature received earlier by the Special Rapporteur. Reports and testimonies further allege that the detained are kept in over-crowded and unsanitary conditions and are subjected to beatings. Various tortures are also said to be practised in detention centres. For example, one witness who admitted to have been an Army deserter claimed that, while in Radwaniyah prison some months before, he had been hit with cables, wires, canes and water hoses in one room, and later subjected to electric shocks administered in another room through his toes and genitals; he also claimed to have been beaten by prison guards.

. As the economic situation has deteriorated, reports and testimonies allege that arbitrary arrests have increased. This is seen to be connected with the parallel increase in the reports of bribes required of persons to obtain release or protection. Bribes in the many thousands of Iraqi dinars, and paid to all levels of Government forces, have been reported.

3. Forced displacement

. Reports indicate that the effect of Government of Iraq actions in the southern marsh area is to force the relocation of the inhabitants from their traditional and ancestral marsh homeland to the urban centres in and around the marshes. In particular, the launching of artillery bombardments, instilling fear among the people and also destroying their homes, is said to have resulted in the displacement of thousands of persons. With the difficulty of securing protection in other marsh settlements, many people have been forced to wander about, hiding among the marshes where possible. Some have reportedly gone to the urban centres, as the alternative of somehow remaining in the marshes has been further reduced by the destruction of the environment: as the waters have declined, movement by boat has apparently become very difficult, and as the quality of water has deteriorated, the ability to subsist through food from available fish and animal stocks, through potable drinking water, and through healthy reeds for hut construction has been severely constrained. The complex of controls effectively denying access to food and health care in the marsh area similarly forces Marsh Arabs to move in an effort to obtain sufficient food and medical supplies and services.

. Testimonies received indicated overwhelmingly that the fundamental impetus for the flight of refugees into Iran this past summer was the drying of the marshes together with a general fear of the governmental authorities. Witnesses claimed that the sometimes incessant bombardments, aside from causing widespread destruction, generated extreme fear among the people. As they moved about the marshes seeking escape or refuge, some people fled to the urban centres where, despite the poverty and generally undesirable lifestyle which would await them and despite the other risks they would confront in arriving as strangers, they would, at least, no longer be subjected to bombardments. Others who were previously reported to have been individually transported by government forces are said to be grouped into controlled sections. The Special Rapporteur notes, however, that those interviewed in south-western Iran did not recount any observation of more organized and direct forced relocation; they simply felt compelled to flee the country.

C. Violations of economic rights

. According to article 2 of the International Covenant on Economic, Social and Cultural Rights, the Government of Iraq is obliged "to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant". Those rights include, inter alia, the rights to "adequate food, clothing and housing" (art. 11) and "the highest attainable standard of physical and mental health" (art. 12).

. In view of the Government of Iraq's obligations to take steps to provide for adequate food, clothing and housing and to achieve the highest standards of physical and mental health, the existence of prohibitions, restrictions and administrative requirements interfering with access constitute violations. Reports and testimonies indicate that such interferences exist and impact the Marsh Arabs in severe ways. For example, access to food rations is extremely limited for them because the system of food rationing employs the use of ration cards, which change periodically and for which recipients must be duly registered. However, this system assumes the prior possession of identification cards which, as noted above, Marsh Arabs find extremely difficult to acquire in a considerable number of cases. Thus, the peculiar situation of the Marsh Arabs coupled with the registration process acts as an interference with their access to basic foodstuffs. In place of food rations, Marsh Arabs are left to acquire their provisions on the open market, which has been inflicted with hyper-inflation. Yet, even should they be able to afford provisions, testimonies allege that Government forces often confiscate acquired goods. Given this additional risk, testimonies further state that many Marsh Arabs became dependent upon smugglers, who brought goods into the marshes at exorbitant prices. However, as the drying of the marshes continued and Government forces improved their control, the inhabitants of the marshes turned more and more to the available natural resources.

. Aside from the difficulties associated with the normal system of rationing, testimonies allege that, for those who previously had access, the Government stopped distributing rations within the marsh villages after the Gulf war of 1991. Instead, the Army is said to have established checkpoints which have the

effect of stopping people from procuring food and other supplies in the towns. Moreover, other conditions on access to food rations within the towns have been reported: one witness claimed that he was refused his rations because he would not join the Army.

. Access to health care is also said to be extremely limited for the Marsh Arab people. As in the case of access to food rations, the problem of identification cards also interferes with access to health care available through the urban medical centres. Since Government doctors reportedly no longer come to the marsh villages, the population is left to its own means. Clandestine and illegal medical services are reportedly offered by individuals and groups operating on a humanitarian basis. Testimony was received from one such individual who claimed that he had spent several months moving in and out of the marshes bringing small amounts of medicines and administering basic medical services to those in need. But, the witness claimed, the needs are far greater than he could possibly serve and, in the absence of care, many people have died.

. In terms of needs, reports and testimonies indicate that malnutrition and disease are widespread within the marsh area. Waterborne diseases such as bilharzia are said to be rampant. The physical condition of the refugees arriving in south-western Iran gave stark credibility to the reported condition of those inside the marshes: of the 5,000 refugees seen at the end of August 1993, doctors reported attending to between 300 and 350 per day with 8 out of 10 patients suffering from amoebic dysentery; several cases of typhoid were also diagnosed each day. It is further to be noted that the extreme heat and humidity during the summer months in the region, reaching 50° Celsius and over 80 per cent humidity, increase the needs for care. Coupled with inadequate food, the effects of disease have been severe, particularly for infants, lactating mothers and the elderly. In this light, the Special Rapporteur was most concerned by the assessment of arriving refugees that they were, in fact, among the strongest and, therefore, most able to flee.

. For those who are able to afford it, a last alternative for medical care can be found on the black market. Persons who need the attention of physicians, including hospitalization, are said to be able to obtain it through the payment of enormous bribes. For example, one witness who was injured in the attack on the wedding at Al-Agar in May 1992 claimed to have paid 10,000 Iraqi dinars for one month's hospitalization. Other witnesses claimed to have paid thousands of dinars to doctors who would come illegally into the marshes.

. Without a doubt, a major contributing cause to the increasing needs of the Marsh Arabs is the loss of their natural resources as the marshes have dried. While attacks on marsh settlements have resulted in the death of livestock, the greater cause of death of fish and animals is attributable to the depletion of water and the deterioration of that which remains. Reports, testimonies and video recordings indicate that the previously clean waters of the marshes have become toxic. This has also resulted in the loss of the Marsh Arabs' source of clean drinking water.

. The precise cause and nature of the toxins in the water is unknown. Reports and testimonies allege that the Government has purposefully poisoned the waters through the introduction of chemicals and other poisons. Some witnesses

claim to have observed the dumping of chemicals, while others recount how governmental authorities encouraged fishermen to pour bottled chemicals into the water, supposedly to improve their catches. However, the Special Rapporteur is much more of the opinion that the reduced waters have become stagnant and also extremely polluted by the huge amounts of industrial and agricultural waste, together with raw sewage, which have been running into the marshes subsequent to the destruction of urban water treatment facilities. In this connection, the Special Rapporteur notes the submission of the Government of Iraq to the World Conference on Human Rights, held at Vienna from 14 to 25 June 1993, in which the Government recounts damage caused to the environment through the discharge into surface water and soil of substantial amounts of "various poisonous and dangerous chemical substances" [redacted] discharge resulting, according to the Government, from the destruction of civil installations by Allied bombing during the 1991 Gulf war (A/CONF.157/4, paras. 35-40 and annex I). Whatever the correctness of this explanation, the Special Rapporteur stresses that the Government of Iraq remains obliged to take steps to limit this discharge; compliance with their obligations under Security Council resolutions 687 (1991) and 688 (1991), of 3 and 5 April 1991, respectively, would provide clear means through which the Government could act.

. Irrespective of the cause of the toxins in the depleted marsh waters, the depletion itself has had a major effect on the availability of food and conditions for good health. In this connection, the Special Rapporteur notes that the completion of a series of Government engineering schemes predated the evident depletion. Aside from the immediate effect of reducing flows and, therefore, causing stagnation in large areas, the Special Rapporteur has also received reports, testimonies and photographs indicating that the agricultural region south-east of Amara has experienced significant flooding. Specifically, it has been reported that the farms and date orchards in the areas of Al-Atwaniyah, Al-Bathi, Al-Ea'wij, Al-Ma'il and Al-Haththaliyah were flooded in mid-June of 1993 just at the time of harvest; wheat, barley and rice crops were lost, and date orchards were destroyed.

. Even if one would accept the thesis of the Government of Iraq that it cannot be held responsible for the draining of the marshes (and the Special Rapporteur finds such a position unsustainable for reasons which will be explained below), the Special Rapporteur emphasizes that the Government has apparently failed to respond to the factual situation irrespective of causes. For example, there are said to have been no efforts to ameliorate the situation of the Marsh Arabs. Vaccinations have apparently also not been carried out, although the Government felt it appropriate to ask most humanitarian agencies operating in the south last year to leave. Moreover, testimonies allege that artillery bombardments of marsh villages are not followed by any efforts to assist the injured, innocent or not. Similarly, witnesses allege that there are no efforts to assist victims of mines which have been laid in the waters of the marshes and which may be hit by Marsh Arabs in their daily movements.

D. Violations of social and cultural rights

. In evaluating the situation of human rights in the southern marsh area, the social and cultural rights of the so-called "Marsh Arabs" come to the forefront of discussion. To begin with, it is clear that the Marsh Arabs are not merely a

minority in the sense of article 27 of the International Covenant on Civil and Political Rights or the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Nor do they constitute an ordinary group with rights arising from the International Covenant on Economic, Social and Cultural Rights. To be sure, the Special Rapporteur believes that the Marsh Arabs qualify for the rights and protections just mentioned. However, they seem to be something more: they are a composite of tribally organized persons who share an essential closeness to their natural environment. Moreover, they would seem to constitute an indigenous people entitled to the rights stipulated in article 1 of the Covenant on Economic, Social and Cultural Rights. Above all, however, there remains their intimate relationship with the marshes, which has shaped their social organization and development through millennia. Indeed, the name given to them by outsiders makes the essential point: without the marshes, there can be no "Marsh" Arabs.

. Given that the survival and maintenance of the Marsh Arabs as a distinct social and cultural group requires the existence of the marshes and their continuing freedom to live within the unique environment, the destruction of the marshes holds significant human rights implications for these people. Consequently, the Special Rapporteur views with extreme worry the evidence before him indicating extensive destruction of the marshes.

. The evidence before the Special Rapporteur indicating the physical situation, the composite of reports, testimonies, video recordings and all types of photographs (including aerial and satellite imagery) seem to show the drying of about 40 per cent of the marshes as of August 1993. Testimonies, supported by video recordings, indicate that the "poisoned" or polluted remains of the water have killed significant amounts of the fauna along with large numbers of the valued water buffalo which live so closely with the people. Information also indicates that a significant decline in the water levels occurred this past summer. In addition to the drying of the marshes, the Special Rapporteur also has confirmation of large reed fires detected in dried areas.

. Receipt of the evidence establishing the present physical situation in the area, i.e., the widespread drying, was predated and predicted by reports of large-scale engineering works undertaken by the Government of Iraq over the past two years. Essentially, these reports allege that the drying of the marshes is a deliberate policy objective of the Government of Iraq. In fact, the Government has largely admitted its responsibility in so far as it has advanced the argument that it is free to pursue its domestic development schemes as an independent State. More specifically, the Minister of Agriculture has claimed that the Government objectives for the area are: (a) to wash away salt-encrusted soils; (b) to reclaim land for cultivation; and (c) to increase water available for irrigation. Indeed, plans supplied by the Government of Iraq in order to prove the legitimacy of its water diversion projects - plans dating from the 1950s - foresee large-scale drainage of the marshes for "development" purposes (see A/C.3/47/2, annex, appendix 3).

. In the light of the Government of Iraq's prior defence of its development projects affecting the marshes, the Special Rapporteur finds it most surprising and inconsistent that the Government has recently turned to blaming the Governments of Turkey and the Syrian Arab Republic for the drying of the marshes: "the noticeable paucity of water there [in the marshes] has been

caused by very low water levels in the Euphrates as a result of the construction and operation of the Keban and Karakaya Dams in Turkey and the Tabqah Dam in Syria and owing to the filling of the Atatürk High Dam in Turkey beginning in 1990" (A/48/387-S/26424). However, other information before the Special Rapporteur indicates that the combined effects of the Turkish and Syrian dams may have accounted for a 10 to 15 per cent drop in the levels of water over the last several years. While the Special Rapporteur has noted the Government of Iraq's consistent objection to the construction and operation of the aforementioned dams, the Special Rapporteur is also aware of several concrete actions which the Government has taken relating to the engineering schemes that clearly affect the marshes. Specifically, the Special Rapporteur draws attention to the following acts of the Government of Iraq: (a) the speedy completion of the Third River; (b) the construction of locks and sluice gates at the head of the Tigris River; (c) the construction of levees blocking the flow of numerous tributaries of the Tigris River which fed the Amara Marshes; (d) the construction of lateral embankments running east-west north of the Amara Marshes; (e) the diversion of waters captured as a result of the latter two projects into a super-canal running parallel to and west of the Tigris River, disgorging into the Euphrates River just west of Al-Qurna; (f) the construction of a dam on the Euphrates River east of Nassiriya, diverting the flow of the River into the Third River; and (g) the construction of a canal diverting the waters away from the Euphrates River (and, therefore, the Al-Hammar Marsh) near Samawah.

. In assessing the relative impact of the potential causes of the drying of the marshes, the Special Rapporteur notes that seasonal fluctuations (including, for example, the light winter in the north) must be considered. However, the extent and suddenness of the drying persuades the Special Rapporteur that something (or things) must have had a direct effect. Based on the information available, the Special Rapporteur is further persuaded that the effects of Government actions are at least very significant. Indeed, there are some things which appear overwhelmingly to have been caused by the Government's actions. For example, the actions diverting the flow of the tributaries of the Tigris River from entering the Amara Marshes are clearly the most immediate causes of the depletion of these marshes. Satellite photography definitively shows the diversion of the waters flowing from the streams and tributaries of the Al-Majar River into the enormous canal (at points, 2 kilometres wide) west of the Tigris River. The depletion of the Al-Hammar Marshes south of the Euphrates River can also be linked to the diversion of the Euphrates into the canal built near Samawah and into the Third River as a result of the dam constructed by the Government of Iraq.

. Having established that the Government of Iraq is at least significantly responsible for the drying of the marshes, it becomes important to establish the objectives of the projects and to scrutinize the methods of implementation in order to discover whether or not the Government has respected all the human rights obligations related to the projects. As to the Government's declared objectives, which relate to development, the Special Rapporteur observes, in the first place, that he has not been able to detect any efforts to reclaim the lands for agricultural production or to reuse diverted waters for purposes of irrigation. In fact, the immediate effect of the blocking of the tributaries from the Tigris River was the flooding of large areas of productive farmland exactly at the time of harvest, causing substantial losses. Should the

Government be genuinely interested in achieving its declared objectives, although it is rather unsuccessful at this time, the Special Rapporteur must still report that he is unaware of any effort to plan or implement the projects "with due regard for the legitimate interests of persons belonging to minorities" according to article 5 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities or to consult with the tribal leaders as required by ILO Convention 107, to which Iraq is a party. Nor is there any evidence to suggest that the Government has entered into discussions with the affected persons concerning appropriate compensation.

. In fact, it has been alleged that the true objective of the Government of Iraq is to destroy the physical and social environment which provides a "safe haven" for suspected "criminals", "deserters" or "infiltrators". This allegation is supported by a variety of arguments and evidence. For example, Government engineering plans for the diversion projects were implemented in the course of a military action which aims at the said objective. The considerable speed of construction of the diversion projects also fails to make sense during a period of considerable economic difficulty: why the tremendous rush? More convincing, however, is an analysis of the projects in the context of Iraq's recent military history: the environment has been used before for military purposes. For example, a January 1985 issue of the New Scientist magazine reports that Iraq built a water-filled canal 50 kilometres long x 10 kilometres wide near Basrah in its war with Iran. In 1981, Iraq had used giant pumps to fill an earlier version of the canal; interestingly, testimony received a couple of months ago alleges that huge pumps have been used to move water out of the Al-Hammar Marshes. More recently in Kuwait, Iraqi forces dug oil pits, spilt oil and ignited oil fires while beating a hasty retreat. Yet more convincing is the fact that the physical situation as known at present bears out testimonies and reports predicting completion of exactly such work projects and the resultant drying of the marshes by this summer.

. Without doubt, the Government of Iraq has repeatedly shown no respect for the social or cultural rights of a particular group. History records the Government of Iraq's preparedness to put an end to Kurdish mountain life not long ago. The fact that another group's way of life may be destroyed, or that the largest wetland ecosystem in the Middle East will be lost, seems not to bother the present Government of Iraq. Rather, the Government seems quite prepared to use the drying of the marshes to push ahead with its military forces in destroying the remaining reed-beds and settlements. To avoid responsibility, the Government of Iraq simply obfuscates and prevaricates by blaming others. As a result, the free people who were sustained for millennia by the sweet waters between the Tigris and Euphrates are on the verge of disappearing.

E. Conclusions

52. In studying the situation of human rights in Iraq and, more specifically, in evaluating the compliance of the Government of Iraq with its international obligations, the Special Rapporteur emphasizes that he continues to apply only those standards to which Iraq has voluntarily consented or which apply as matters of international customary law to which Iraq has not consistently objected. The relevant standards have been recounted, and addressed in the

light of any special circumstances, in previous reports of the Special Rapporteur (E/CN.4/1992/31, paras. 18-39, and E/CN.4/1993/45, paras. 23-25).

With respect to the allegations concerning indiscriminate bombardments of civilian settlements in violation of the victims' rights to life and security of person, the Special Rapporteur concludes that the Government of Iraq is responsible for such violations on a large scale. Indeed, the employment of such undiscriminating weapons and techniques to effect a supposed police action against suspected criminals has previously been condemned by the Special Rapporteur, but the continued resort to the tactic, involving specific targeting from ever closer range, amounts to a most egregious violation of the most elemental tenet of international human rights law. Moreover, the failure to distinguish between suspected "criminals", "deserters", "infiltrators" and innocent civilians may be said to reveal a great deal about the Government's general level of respect for its people.

While the Special Rapporteur has not received corroborative substantiation of the allegations concerning "chemical weapons" use, he nevertheless notes that he has received the allegations from several sources. As such, the Special Rapporteur considers that the allegations cannot be dismissed out of hand. Moreover, given the seriousness of the allegations, the Special Rapporteur welcomes the news that the United Nations Special Commission (UNSCOM) established pursuant to Security Council resolution 687 (1991) intends to conduct an investigation. It would be hoped that the Government of Iraq will extend its fullest cooperation in facilitating the prompt conduct of the investigation. However, pending the outcome of UNSCOM's work, and in the absence of further evidence, the Special Rapporteur finds himself unable to draw any conclusions at this time concerning these most serious allegations.

Of course, the seriousness of the allegations concerning "chemical weapons" use, as other allegations pertaining to events in the south, must be viewed in the context of previous events and the previous conduct of the Government of Iraq, such as the terrible Anfal operations launched against the Kurdish population in 1987-1988 (see E/CN.4/1993/45, paras. 89-99). Indeed, given the history of Iraqi forces meting out collective punishments against family members, neighbours of perceived "criminals" or opponents, or against larger communities, the Special Rapporteur does not find it inconsistent to have received allegations that entire marsh villages are being "accused" or that, in effect, the whole marsh area is being collectively punished for harbouring or assisting "criminals" and "deserters" and, essentially, remaining a sanctuary beyond the control of the Government.

In a situation in which entire villages are being brazenly destroyed through indiscriminate bombardment, the Special Rapporteur finds the allegations of widespread arbitrary arrest and detention to be most credible. The demonstrated fear which has driven thousands to flee is also a convincing substantiation of these allegations. Moreover, given the very nature of the forces employed by the Government of Iraq so as "to eliminate the intimidation and criminality" (see letter of 9 September 1993 from the Permanent Representative of Iraq (A/48/387-S/26424)), and given the evident lack of judicial controls on the actions of these forces, the Special Rapporteur concludes that almost any arrest or detention in such circumstances would be arbitrary by definition.

With regard to the forced displacement and relocation of the Marsh Arabs, the Special Rapporteur concludes that the efforts of the Government of Iraq to effect military-type control of the region through extreme and indiscriminate techniques have resulted in the internal displacement of thousands of persons and have caused thousands of others to relocate to urban centres. Thousands more have sought refuge outside the country.

In view of the more direct and more immediately offensive military actions of arbitrary bombardment of villages and arbitrary arrest of persons within the region, the Special Rapporteur does not find it surprising to continue to receive allegations concerning severe restrictions on access to food and health care. The Special Rapporteur concludes that the imposition of a complex of prohibitions, restrictions and requirements effectively denies the marsh dwellers access to food and health care, at least within their indigenous environment. These more indirect means of attacking the population, including the destruction of the environment, clearly breach Government obligations to ensure access, provide a minimum of resources and otherwise attend to the basic needs of the civilian population. Certainly, the failure of the Government of Iraq to take steps in response to evident needs, irrespective of their causes, constitutes a conspicuous omission in violation of international obligations.

In relation to the economic, social and cultural rights of the Marsh Arab people in particular, the Special Rapporteur concludes that the Government of Iraq is significantly responsible for the draining of the marshes, for the deterioration of the quality of remaining waters and, in general, for the destruction of the physical and social environment necessary for the maintenance of the traditional ways of life. Irrespective of any legitimate interests the Government of Iraq may have in the region, either in terms of effecting police actions development projects, the Special Rapporteur concludes that Government policies demonstrate a blatant disregard for the rights and welfare of the indigenous peoples.

In reviewing the situation in the southern marsh area, it becomes clear that the main issue for the Government is its desire for control. This desire seems to overshadow all other concerns. Other factors like, for example, underlying prejudices against the Marsh Arabs appear to contribute something to the creation of Government policies vis-à-vis the area (see E/CN.4/1992/31, para. 126, and A/47/367/Add.1, para. 21). However, the evidently disproportionate use of military forces and means against such a historically peaceable civilian population as the Marsh Arabs indicates that the aim is not only to subdue the "criminals" in the area, but to subdue the whole population through indiscriminate means. The assumption and attribution of political sympathies held by the Marsh Arabs, and the conclusion of guilt by proximity of, or association between, the Marsh Arabs and possible "criminals", "deserters" or "infiltrators", are also indications of an extreme will to repress the whole population. Consequently, and in view of the enormous gaps in the rule of law in Iraq (see, in particular, E/CN.4/1993/45, para. 181), the Special Rapporteur fears for the safety of all those in the area, including women, children and the elderly. In this connection, the very fact that some 5,000 persons (largely women and children) recently fled the area is convincing evidence that the Special Rapporteur's fears are justified.

Over and above the conclusions which the Special Rapporteur has drawn in terms of international human rights law, he observes that the indiscriminate bombardments of civilian settlements, the arbitrary arrest and detention of large numbers of persons, the denial of access to food and health care, and the general destruction of the environment sustaining the traditional ways of life constitute a policy of repression in violation of paragraph 2 of Security Council resolution 688 (1991). In addition, the continuing denial of access to the region by international humanitarian organizations, together with the related refusal to facilitate the operations of such organizations, constitutes a violation of paragraph 3 of that resolution. Further, any proven possession or use of "chemical weapons" on the part of the Government of Iraq would constitute a violation of paragraphs 8 and 10 of Council resolution 687 (1991).

III. THE SITUATION OF ECONOMIC RIGHTS

A. Introduction

The Special Rapporteur has previously addressed the situation of economic rights in each of his reports to the General Assembly and the Commission on Human Rights. In his first reports to the Assembly and the Commission, the Special Rapporteur specifically referred to the issues of access to food and health care (see, respectively, A/46/647, paras. 52-54 and 95-98, and E/CN.4/1992/31, paras. 29, 81-83, 145 (o) and (p), and 158 (4) and (5)). In his second report to the General Assembly, the Special Rapporteur addressed the problem of the denial of access to food and health care in the southern marsh area (A/47/367, part one, paras. 14 and 15) before proceeding to a more comprehensive report on the situation of economic and social rights throughout the country (A/47/367/Add.1, annex). In his last report to the Commission on Human Rights, the Special Rapporteur again addressed the problem of access to food and health care in the country as a general matter (E/CN.4/1993/45, paras. 67-72, 185 and 187 (d) and (e)) and in relation to the specific situations in the southern marsh area (ibid., paras. 127-130 and 187 (d)) and the non-Government-controlled northern Kurdish territory (ibid., paras. 100-104, 112, 184 and 187 (d)).

While it is clear that the Government of Iraq is functioning under considerable constraints resulting from the combined effects of the destruction suffered in the Gulf war of 1991, the subsequent destruction in the suppression of the March 1991 uprisings, and the economic sanctions imposed by the United Nations pursuant to Security Council resolution 661 (1990) of 6 August 1990, the Special Rapporteur has endeavoured to analyse the obligations of the Government. In view of the continuing peculiarities of the economic situation in Iraq and, as noted below, the declining general standards of health and welfare, the Special Rapporteur again finds it necessary to address the situation of economic rights in a specific way at this time.

With respect to applicable standards by which the Special Rapporteur views the situation of human rights in Iraq, reference should to be made to paragraphs 33 and 52 above. In addition, the Special Rapporteur underlines two general obligations arising from the International Covenant on Economic, Social and Cultural Rights, to which Iraq is a State Party: first, the obligation "to take steps, individually and through international assistance and cooperation,

especially economic and techni
as stipulated in article 2, pa the maximum of its available resources",
obligation "to guarantee that 1, of the Covenant; and second, the
be exercised without discrimin ts enunciated in the present Covenant will
language, religion, political any kind as to race, colour, sex,
property, birth or other statu opinion, national or social origin,
the Covenant. tipulated in article 2, paragraph 2, of

B.

uation in general

In so far as the Special
southern marsh area in section ur has addressed the situation in the
situation in the rest of the ce, this section will consider the
necessary to consider the situ In this context, it appears nevertheless
separate subsection since the the northern Kurdish territory in a
situation. ng circumstances present a special

With regard to the countr
not dispute the Government of as a whole, the Special Rapporteur does
deteriorating situation. Figu eports indicating a constantly
Government in the past year re descriptions reported periodically by the
numbers of deaths due to preve mendous and disturbing increases in the
particular, large increases in iseases and treatable illnesses. In
attributable to diarrhoea, pne ant mortality rate and increases in deaths
reported. Reports by or for U diabetes and malnutrition have been
similar deterioration in the g tions agencies, such as UNICEF, report a
publication of the United Nati tandards of health. In addition, a
(UNIAHPI) setting out its coop r-Agency Humanitarian Programme in Iraq
31 March 1994 records the furt programme for 1 April 1993 through
while enumerating a parallel p in living standards over the past year
in the needs of the most vulnerable.

While the statistics offe he Government of Iraq suggest an increase
in the needs of the people, th l Rapporteur cannot help but be struck by
the Government's continuing re take advantage of opportunities to
increase available resources b ugh the possibility of the sale of oil
according to Security Council ons 706 (1991) and 712 (1991) of
15 August and 19 September 199 ectively, and through expanded and improved
relations with international h ian organizations. In this connection,
the Special Rapporteur notes t cording to article 2 of the International
Covenant on Economic, Social a ural Rights, the Government has an
obligation "to take steps ... maximum of its available resources". In
interpreting this particular p the Special Rapporteur refers to the
authoritative General Comment ed by the Committee on Economic, Social
and Cultural Rights at its fi ion in 1990 (E/1991/23 and HRI/GEN/1):

> "10. ... Article 2 (1) ob each State party to take the necessary
> steps 'to the maximum of ilable resources'. In order for a State
> party to be able to attr e failure to meet at least its minimum core
> obligations to a lack of le resources it must demonstrate that every
> effort has been made to esources that are at its disposition in an
> effort to satisfy, as a f priority, those minimum obligations.

"11. The Committee wishes to emphasize, however, that even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. ...

"12. Similarly, the Committee underlines the fact that even in times of severe resource constraints whether caused by a process of adjustment, of economic recession, or by other factors the vulnerable members of society can and indeed must be protected ...

"13. ... The Committee notes that the phrase 'to the maximum of its available resources' was intended by the drafters of the Covenant to refer to both the resources existing within a State and those available from the international community through international cooperation and assistance. ..."

Hence, so long as the Government of Iraq refuses to take the steps to enlarge the resources available to it, and therefore fails to provide those in need, especially the most vulnerable, with adequate food and health care, the Government will be in violation of its obligations. On this specific point, the Special Rapporteur further notes that, according to UNIAHPI, the total requirements for the year 1 April 1993 through 31 March 1994 amount to US$ 465,402,650, while the Government of Iraq may access approximately double this amount for humanitarian purposes simply by taking advantage of Security Council resolutions 706 (1991) and 712 (1991). Inasmuch as UNIAHPI remains underfunded by almost $360,000,000 at this late date, the Government's failure to act because of a perceived injury to its "sovereignty" (see, most recently, the Government's arguments in document A/48/387-S/26424) bears heavily upon those in need and no doubt accounts for a significant portion of the large increases in mortality rates. Similarly, the Government of Iraq's past decision to reduce the international humanitarian assistance available throughout the country, particularly in the south, has no doubt caused considerable and unnecessary suffering and even death to innocent people in need.

At the same time that the Government of Iraq has failed to take steps to enlarge the resources available to it and, therefore, to those in need, it has continued with policies of evident discrimination in violation of article 2, paragraph 2, of the Covenant referred to above. Specifically, the geographic disparities between the pace of reconstruction and availability of rations and other basic needs favours the central part of the country and clearly disfavours the south. Not only has the Government chosen to attend to the needs of the central region over all others, but it has at the same time caused the withdrawal of international humanitarian assistance to the southern region, which is specifically disfavoured. Beyond this basic geographic disparity also remain the clear preferences granted to specific strata of society in the pay of the Government, e.g., the military in general and some divisions in particular.

C. The situation in the northern Kurdish territory

The Special Rapporteur has previously referred to the specific situation of economic rights in the northern Kurdish territory in his report to the Commission on Human Rights at its forty-eighth session (E/CN.4/1992/31,

paras. 104-105), in part two of his interim report to the General Assembly at its forty-seventh session (A/47/367/Add.1, paras. 24-31) and in his last report to the Commission on Human Rights at its forty-ninth session (E/CN.4/1993/45, paras. 32-33, 71-72 and 100-105). In each case, the Special Rapporteur has noted the especially difficult situation prevailing as a result of the so-called "double embargo", i.e., the effects of the international sanctions pursuant to Security Council resolution 661 (1990) affecting the whole territory of Iraq combined with the internal economic blockade imposed by the Government of Iraq against the northern territory, from which the Government withdrew its administration in the autumn of 1991 subsequent to popular uprisings and the creation of a "safe haven" guaranteed by foreign and Allied forces. However, in the absence of a continuing or effective occupation of the territory by these foreign forces, the Government's withdrawal has left the predominantly Kurdish population in a peculiar position. Specifically, on the one hand, the Government withdrew its administrative services (including social security and welfare support) on the argument that it was forced out by the foreign occupation, yet on the other hand, the Government argues that it is perfectly justified in restricting economic flows (including essential goods) to the region as a matter of its sovereignty over the territory, thus leaving almost 4 million inhabitants in a most disadvantaged and precarious situation. In this light, the Special Rapporteur felt bound to address the persistent territorial issue in a separate section of his last report to the Commission under the subtitle "The question of sovereignty" (E/CN.4/1993/45, paras. 32 and 33).

As a general matter, the Special Rapporteur observes little significant change in the situation of economic rights in the northern Kurdish territory. Indeed, the people appear ever more vulnerable to the economic and social uncertainties which their precarious situation implies: the collapse of certain basic infrastructure owing to non-repair or interference, or the coming of a harsh winter, would result in considerable suffering including large numbers of deaths. But without further reference to the potential for real calamity in the Kurdish region - a potential which the Special Rapporteur believes the Government is under an obligation to confront and reduce - the Special Rapporteur observes that the following actions of the Government have had a continuing negative effect on the situation of economic rights in the area: continuation of the internal economic blockade; territorial discrimination in the withdrawal of the 25 Iraqi dinar banknote; armed attacks, especially upon agricultural fields and villages; and the still less than full cooperation with the United Nations humanitarian programme.

The most obvious economic action by the Government concerning the northern Kurdish territory remains the internal economic blockade. Aside from the fact that basic social services have been withdrawn, including distribution of income support in the form of pensions, basic trade in goods has been blocked. This has undermined the ability of the population physically to obtain necessities or to trade for them. The blockade applies to virtually everything and makes essentially no humanitarian exceptions. Indeed, its rather ad hoc, although total, nature has not given rise to administrative institutionalization such that any one might "apply" for exceptions on humanitarian grounds. To the contrary, it seems clear that the object of the blockade is to punish collectively those in the region for the relative success of the 1991 uprisings and also to undermine the local government which was elected last year. For example, the extent of food rations made available to those in the region has

been reduced to about 10 per cent of need and is a fraction of what is generally made available to citizens in other parts of the country. Access to health care materials and essential fuel supplies has also been blocked. The latter are of special importance in the northern region, which is susceptible to harsh winters in the snow-covered mountains of Kurdistan. The Special Rapporteur has previously emphasized that such restrictions on fuel essential for heating are inexcusable and seem unconscionable in a country and region which is among the world's richest in this resource.

A particular and extensive problem facing the Dohuk area of the territory, from which the Government has withdrawn, is the cut in electricity supply which began on 5 August 1993. While this has affected much of life in a large part of the Kurdish region since that date, it has particular consequences for the health of the population since water pumping and treatment facilities have been affected, as have been hospitals and other medical centres. Resultant problems with clean drinking water and sewage treatment have created anxieties about the spread of dangerous diseases while the effects on medical centres, including emergency care and the necessary refrigeration of pharmaceutical products, have been to reduce further the ability of local doctors to respond to needs. The Special Rapporteur has learned that, for a long time during hot months, five major hospitals were without water, cooling and sterilization systems or the capacity to perform surgical procedures; these have been somewhat restored through the use of generators subsequently supplied under the United Nations humanitarian programme. Extra pressure was also placed on already limited supplies of vaccines. Deaths were reported specifically related to the cut in electricity. As to the Government of Iraq's responsibility for the electricity problem, the Special Rapporteur notes that, in the third week of September, an expert team examining the power line between the generating facility in the Government-controlled area and the cut-off area of Dohuk found no major fault, and the flow of electricity was restored for some hours on 18 September. While the Special Rapporteur understands that some discussions have been held with the Government of Iraq with a view to restoring the electrical flow, no such restoration has ensued and the added suffering continues as winter approaches.

A second particular problem which confronted those living in the northern Kurdish territory concerns the Government's withdrawal and invalidation of the 25 Iraqi dinar banknote on 5 May 1993. In implementing its withdrawal from circulation, the Government closed its external frontiers and also sealed its internal frontier with the Kurdish region, where the Iraqi dinar remains the official currency. With the exception of the Kurdish region, therefore, Iraqis in the country were given the opportunity to exchange their old 25 Iraqi dinar notes. As a consequence of this territorial discrimination, it has been estimated that those living in the Kurdish region (including the local Kurdish government) lost about one half of their wealth held in Iraqi currency, as they were afforded no alternative means of exchanging their banknotes. Thus, already enduring the severe effects of the "double embargo", inhabitants of the region lost even more of their ability to survive because their ability to trade was further curtailed.

Another obvious interference with access to food in the region has been the continuing armed attacks in and on the region. These attacks, often in the form of artillery shellings of agricultural fields and settlements along the internal frontier, have kept some farmers from their fields and have also destroyed

planted crops. Attacks during the harvest of May 1993 caused the displacement of hundreds of persons from villages and hamlets in cereal-growing areas; in one instance, on 21 May 1993, Iraqi artillery attacked a farmer driving his combine harvester.

It has been alleged that the aim of Government actions concerning the northern Kurdish region is to bring the economy to a standstill, to increase the threat of a harsh winter, and generally to add to the political instability of the region. More specifically, it has been alleged that Government of Iraq agents have been conducting covert operations in the area. Certainly, insecurity in the region has been growing as incidents of a security nature have increased, especially in recent months. Incidents include: clashes between Government and non-government forces along the internal frontier; explosions caused by rocket-propelled grenades, hand-grenades, time bombs and other devices; assassinations of local politicians; attacks, including assassinations, on national and international humanitarian workers; firearm attacks against persons and property; and the vandalism of the property of international humanitarian organizations, including the United Nations. As a result, many persons have been injured and some have been killed. For example, on 22 March 1993, Vincent Tollet (a Belgian national who had been leading the humanitarian work of Handicap International) was shot and killed while driving in Sulaymaniyah. It is to be noted that, following this incident, several international non-governmental humanitarian organizations left the region on the grounds of insufficient security.

It would be wrong to attribute all violent incidents that have been taking place in the Kurdish area during the past year to the activities of Iraqi agents. But, on the other hand, there have been many incidents exhibiting strong indications of Iraqi Government involvement. For instance, various persons have been caught in the course of attacks, including attaching time-bombs to vehicles. Some have claimed that they have been paid large amounts of money by Iraqi Security forces to carry out such acts of sabotage.

In relations with the United Nations humanitarian programme for Iraq, the Government has recently demonstrated a more forthcoming attitude, particularly with respect to its agreement to the sale of fuel supplies which the United Nations estimates would be sufficient for essential needs this winter. However, such agreements have been generally a long time in coming, cumbersome in achieving, and sometimes difficult to implement: the Special Rapporteur hopes that no difficulties will interfere with the purchase or delivery of the fuel to the northern region. In this connection, the Special Rapporteur notes Government delays in the past year concerning, inter alia, the issuance of visas and/or travel permits and the purchase of operational fuel sufficient to carry out programmes agreed upon earlier. United Nations personnel still report harassments, including searches of their persons and belongings in violation of their immunities. Further, the Government of Iraq still has not made its financial contributions (in Iraqi dinars) to the functioning of the programme, as it agreed to do in previous memorandums of understanding with the United Nations.

In summary, the Special Rapporteur remains particularly concerned about the security of the basic economic needs of the people of the northern Kurdish territory. As winter approaches, the hundreds of thousands who have been

identified as particularly vulnerable (including unsupported orphans, single mothers and elderly persons) live in danger. Government policies effectively denying or interfering with the economic rights of these people offend the most fundamental of humanitarian values.

D. Conclusions

With respect to applicable standards, the Special Rapporteur refers as a general matter to paragraph 52. In terms of standards more specifically concerning economic rights, he refers, inter alia, to the obligations of Iraq arising from articles 2, 9, 11 and 12 of the International Covenant on Economic, Social and Cultural Rights.

The Special Rapporteur concludes that the Government of Iraq has violated its obligations regarding economic rights both by its actions and omissions. Regarding the former, the Government has acted in a discriminatory fashion in its distribution of food and health care to the benefit of certain strata throughout the country and to the detriment of the human rights of the general populations living in the northern and southern parts of the country. Likewise, the discriminatory exclusion of the inhabitants of the northern Kurdish region from exchanging their 25 Iraqi dinar banknotes constitutes a violation in so far as it further undermines the ability of the people to obtain sufficient food and health related resources. In denying or restricting access to adequate food, heating, fuel and health care, the Government is also in violation of its obligations under articles 11 and 12 of the above-mentioned Covenant. Moreover, the Government of Iraq is in violation of its obligations "to take steps" according to article 2, paragraph 1, of the same Covenant inasmuch as the Government has failed to act to enlarge the resources available to it to attend to the needs of the people and also failed to act in extending its fullest cooperation to international humanitarian organizations.

Over and above the conclusions which the Special Rapporteur has drawn in terms of international human rights law, the Special Rapporteur observes that the indiscriminate bombardments of agricultural fields and communities, the continuing internal economic embargo, the continuing harassment of civilians crossing the internal frontier, and governmental activities aimed at undermining the security of the population in the unadministered territory constitutes a policy of repression in violation of paragraph 2 of Security Council resolution 688 (1991). In addition, the continuing difficulties in facilitating the humanitarian work of international organizations in the country through, for example, restricting access to sufficient operational fuel requirements constitutes a violation of paragraph 3 of resolution 688 (1991).

IV. RECOMMENDATIONS

Upon consideration of the above, and especially referring to his conclusions in sections II and III, the Special Rapporteur recommends that:

(a) The Government of Iraq immediately cease its military activities of all kinds effected against the civilian population in the southern marsh area;

(b) The Government of Iraq allow immediate and unconditional stationing of human rights monitors throughout the country, especially the southern marsh area;

(c) The Government of Iraq fully cooperate in facilitating an investigation to be conducted by the United Nations Special Commission established pursuant to Security Council resolution 687 (1991) concerning the allegations of "chemical weapons" use in southern Iraq;

(d) The Government of Iraq immediately cease or reverse any actions which may cause irreparable damage to the southern marsh environment and immediately allow access to an independent scientific team to conduct a comprehensive environmental assessment concerning the exact causes and effects of the draining of the southern marshes, especially as regards the consequences for human rights;

(e) The Government of Iraq immediately enter into discussions with the tribal peoples of the southern marsh area with a view to securing their economic, social and cultural rights and establishing appropriate compensation for any damage to their ancestral homeland and way of life;

(f) The Government of Iraq immediately allow unhindered access of United Nations humanitarian agencies throughout the country, but particularly the southern marsh area;

(g) The Government of Iraq immediately act to remove any and all interferences, including proclaimed or de facto internal embargoes, with the fair and equitable access of the whole population to those foodstuffs, medical supplies and essential resources available to the country;

(h) The Government of Iraq immediately cease its artillery shelling of farms and communities in the northern Kurdish territory and cease its harassment of civilians crossing the internal frontier between the Government-administered and unadministered territories;

(i) The Government of Iraq immediately make all outstanding payments due to, and cooperate in the provision of operational fuel for, the United Nations humanitarian programme in Iraq;

(j) The Government of Iraq immediately act to take advantage of the food and medical resources to be made available to the people of Iraq through implementation of Security Council resolutions 706 (1991) and 712 (1991).

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in Iraq

Note by the Secretary-General

Addendum

1. Subsequent to the finalization of his report to the General Assembly at its forty-eighth session, the Special Rapporteur on the situation of human rights in Iraq received a letter dated 4 November 1993 from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva, transmitting the reply of the Government to the allegations of human rights violations contained in his letter dated 30 September 1993, which was reproduced in his report (A/48/600, para. 8). The letter dated 4 November 1993 from the Permanent Mission of the Republic of Iraq read as follows:

> "While affirming its commitment to the principles of the United Nations and the Universal Declaration of Human Rights and to the promotion of the human rights and fundamental freedoms enshrined in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, Iraq finds that the above-mentioned note contains false and unrealistic allegations.
>
> "With regard to the allegations concerning the marsh area, Iraq is doing its utmost to meet all the requirements for the security and protection of all its citizens in accordance with its domestic laws and its international obligations in such a way as to safeguard all their civil, political, economic, social and cultural rights in all parts of Iraq. In this connection, Iraq reaffirms that it is merely fulfilling its duty when the competent official Iraqi authorities, acting in accordance with the law and the proper procedures, pursue outlaws, deserters from military service and persons infiltrating across the border with Iran into the marsh area in Iraqi territory where they commit all types of crimes to the detriment of the safety and security of the Iraqi people, thereby making it necessary for the competent Iraqi authorities to fulfil their duty of maintaining security and stability in the area.

"With regard to the allegation concerning the draining of the marshes and the displacement of their inhabitants, Iraq has already clarified this matter and has emphasized that the water in the marshes is fed primarily from the River Euphrates and the notable decline in the volume of that water is attributable to the significantly lower water level in the River Euphrates due to the construction and operation of the Keban and Karakaya dams in Turkey and the Tabqa Dam in Syria and the commencement, since 1990, of operations to fill the giant Atatürk Dam in Turkey. As a result, there has been a very substantial decline in the volume of water feeding into the River Euphrates and the available water resources are insufficient to meet agricultural and non-agricultural needs. The quality of the water has also deteriorated due to an increase in its salinity.

"With a view to ensuring better use of the available water, the competent authorities have made comprehensive plans to manage the water resources in a manner conducive to their optimum exploitation.

"With regard to the allegations concerning arbitrary arrests and detentions which have caused many people to flee in search of safety and for fear of persecution, these assertions, most regrettably, are extremely vague like many of the unfounded allegations that are made against Iraq, for dubious political motives, as a result of incitement or prompting from the Governments of some Western States. No reply can be given to such allegations or assertions unless they are specific and refer to names, dates and substantiating facts that can be checked by the competent authorities. It should be borne in mind that the Government of Iraq has invited numerous parliamentarians and journalists to visit the area and ascertain the true situation. Those who have done so have discovered the spurious nature of those unjust allegations.

"The reiteration of such accusations is merely a further attempt by Van der Stoel, the Netherlands politician, to contribute to the United States-British conspiracy to partition Iraq and use those allegations as a pretext for foreign military intervention in southern Iraq, ostensibly in order to protect human rights, as happened in Iraq's northern governorates of Sulaimaniya, Arbil and Dohuk.

"Being eager to improve the human rights situation throughout its territory, the Government of Iraq feels obliged to refer to the tragic situation in regard to health and the supply of food and medicine due to the ongoing unjust embargo, which constitutes a flagrant violation of the most basic human rights enshrined in international instruments and conventions concerning human rights.

"In this connection, we wish to refer to the special warning No. 237 issued by the joint FAO/WFP mission in document FAO/ESC/No. 4960 of 7 July 1993 entitled 'Mission to assess crop and food assistance to Iraq' (July 1992), which reveals the gravity of the food and health situation in Iraq.

"While expressing its constant willingness to cooperate with human rights bodies on a rational and objective basis, Iraq finds that the accusations contained in the note are merely an attempt to foment a new

crisis to coincide with the work of the forty-eighth session of the General Assembly of the United Nations and the fiftieth session of the Human Rights Commission so that, under cover of this artificial crisis, Western political authorities can conduct an unjust campaign against Iraq and the Iraqi people."

Observations by the Special Rapporteur

2. The Special Rapporteur would like to make the following observations concerning the above reply:

(a) The Government of Iraq continues to insist that the draining of the marshes is "due to the construction and operation of the Keban and Karakaya dams in Turkey and the Tabqa Dam in Syria and the commencement, since 1990, of operations to fill the giant Atatürk Dam in Turkey". As the Special Rapporteur has explained in paragraph 47 of his report, there are several reasons to doubt that the sudden major decline of the water level in the marshes this summer can be attributed solely to the construction of these dams.

(b) The Government of Iraq continues to insist that its activities in the southern marshes are solely directed against criminals. However, the report of the Special Rapporteur provides ample evidence that indiscriminate actions are being undertaken with disastrous consequences for the population as a whole.

(c) The Government of Iraq states that it has invited numerous parliamentarians and journalists to visit the area. If it genuinely wants outside observers to assess the situation, however, it ought not only to take journalists on guided tours, but it also ought to accede to the repeated requests of the Special Rapporteur to be enabled to visit Iraq again in order to study the human rights situation. However, in its communication of 4 November 1993, the Government again avoids a direct reply, but makes instead wild accusations about the involvement of the Special Rapporteur in a conspiracy to partition Iraq.

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HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS SITUATIONS AND REPORTS OF SPECIAL RAPPORTEURS AND REPRESENTATIVES

Situation of human rights in the Sudan

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the situation of human rights in the Sudan prepared by Mr. Gáspár Bíró, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1993/60 of 10 March 1993 and Economic and Social Council decision 1993/272 of 28 July 1993.

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ANNEX

Interim report on the situation of human rights in the Sudan prepared by Mr. Gáspár Bíró, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1993/60 of 10 March 1993 and Economic and Social Council decision 1993/272

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I. INTRODUCTION

A. Mandate of the Special Rapporteur

1. The situation of human rights in the Sudan was discussed by the Commission on Human Rights at its forty-seventh session, in 1991, under the confidential procedure established by the Economic and Social Council in its resolution 1503 (XLVIII) of 27 May 1970. It continued to be discussed under the confidential procedure at the Commission's sessions in 1992 and 1993. At its forty-ninth session, in 1993, the Commission on Human Rights decided, in its resolution 1993/60 of 10 March 1993, entitled "Situation of human rights in the Sudan", that the situation of human rights in the Sudan should be examined under the public procedure.

2. In resolution 1993/60, the Commission noted with deep concern reports of grave human rights violations in the Sudan, particularly summary executions, detentions without trial, forced displacement of persons and torture; noted the announcement by the Government of the Sudan of its intention to constitute an independent judicial inquiry commission to investigate the killings of Sudanese employees of foreign relief organizations; also noted the widespread conditions of armed conflict existing within the Sudan; expressed its deep concern that access by the civilian population to humanitarian assistance had been impeded; and expressed its alarm at the mass exodus of refugees into neighbouring countries and the large number of internally displaced persons and victims of discrimination in the Sudan.

3. In the resolution, the Commission urged the Government of the Sudan to respect fully human rights and called upon all parties to cooperate in order to ensure such respect. It called upon the Government of the Sudan to comply with applicable international human rights instruments and to ensure that all individuals in its territory and subject to its jurisdiction, including members of all religious and ethnic groups, enjoy fully the rights recognized in these instruments. Further, it called upon all parties to the hostilities to respect fully the applicable provisions of international humanitarian law to halt the use of weapons against the civilian population and to protect all civilians from violations, including displacement, arbitrary detention, ill-treatment, torture and summary execution, and strongly urged all parties to the conflict to redouble their efforts to negotiate an equitable solution to the civil conflict. The Commission called upon the Government of the Sudan to ensure a full, thorough and prompt investigation by the independent judicial inquiry commission of the killings of Sudanese employees of foreign relief organizations, to bring to justice those responsible for the killings and to provide just compensation to the families of the victims. In addition, all parties were called upon to permit international agencies, humanitarian organizations and donor Governments to deliver humanitarian assistance to the civilian population.

4. Also in the resolution, the Commission on Human Rights requested its Chairman to appoint a special rapporteur to establish direct contact with the Government and with the people of the Sudan and to investigate and report on the situation of human rights in the Sudan, including any progress made there towards the full restoration of human rights and compliance with international human rights instruments and international humanitarian law. The Special Rapporteur was requested to seek and receive credible and reliable information

from Governments, non-governmental organizations and any other parties who have knowledge of these matters and to report his findings and recommendations to the General Assembly at its forty-eighth session and to the Commission on Human Rights at its fiftieth session. For its part, the Government of the Sudan was called upon to extend its full and unreserved cooperation and to assist the Special Rapporteur in the discharge of his mandate, and, to this end, to take all necessary steps to ensure that the Special Rapporteur has free and unlimited access to any person in the Sudan whom he wishes to meet.

5. On 30 March 1993, the Chairman of the Commission on Human Rights appointed Dr. Gáspár Bíró (Hungary) as Special Rapporteur on the situation of human rights in the Sudan, pending approval of Commission on Human Rights resolution 1993/60 by the Economic and Social Council.

6. At its substantive session of 1993, the Economic and Social Council, by its decision 1993/272, approved Commission resolution 1993/60.

7. In taking up his task to study the situation of human rights in the Sudan, the Special Rapporteur has respected the terms of Commission resolution 1993/60. In this regard, it is to be noted that in the resolution the Commission not only addresses the Government of the Sudan, but also contains references to the armed conflict within the Sudan and all parties involved in it. The Special Rapporteur will also address therefore human rights abuses committed by parties other than the Government of the Sudan, though it is clear that the Government of the Sudan, claiming sovereignty over the whole territory of the State, is bound to respect the human rights obligations and is to be held responsible should it not abide by these obligations.

8. The resolution does not contain any indication of the period of time during which violations to be studied may have occurred. The Special Rapporteur has therefore decided to concentrate in the final report on violations which have occurred after 30 June 1989, since this is the date when the present Government came to power.

9. In the present interim report, the Special Rapporteur has decided to concentrate on a selection of grave violations which were either reported since the adoption of resolution 1993/60 or concern cases for which new information and evidence were gathered during the mission in September 1993. Since a visit to the areas controlled by the Sudan People's Liberation Army (SPLA) in the Nuba Mountains was not possible, the interim report will mention only the most serious allegations concerning abuses committed by SPLA in these zones which were received in person by the Special Rapporteur. Also, the circumstances of the September mission were not appropriate for a thorough investigation of reports on violations of human rights by different SPLA factions in southern Sudan, although several reliable reports and information were already gathered in this respect. To clarify this situation and in order to be able to fulfil the mandate properly, a second mission is necessary before submitting the final report to the Commission.

B. Activities of the Special Rapporteur

10. On 23 July 1993, the Special Rapporteur was received by the Permanent Representative of the Sudan to the United Nations Office at Geneva, Mr. Ali Ahmad Sahlool. At the meeting, the Permanent Representative expressed the intention of the Government of the Sudan to respect decisions of the United Nations. With regard to the situation of human rights, he emphasized the complexity of the situation and expressed his view that to the extent that human rights violations were committed, they took place in a state of war. The Permanent Representative therefore encouraged the Special Rapporteur to pay a thorough visit to the Sudan, covering also SPLA-controlled areas and the Nuba Mountains, as soon as his mandate would be approved. The Special Rapporteur on his part assured the Permanent Representative of his intent to carry out his mandate in the most impartial and objective manner.

11. Following the approval of the mandate by the Economic and Social Council, the Special Rapporteur addressed a letter dated 29 July 1993 to the Minister for Foreign Affairs of the Sudan, requesting an official visit to the country. Upon the invitation of the Government of the Sudan, conveyed by a letter dated 9 August 1993 from the Permanent Mission of the Sudan at Geneva, the Special Rapporteur visited the country from 11 to 23 September 1993.

12. During this visit, the Special Rapporteur spent seven days at Khartoum, four days in the Government-controlled areas in the Nuba Mountains and two days in the city of Wau. From Khartoum, the Special Rapporteur visited the camps of Jabal Awliya for displaced persons and squatters, the children's camp of Abu Dom, the women's prison in Omdurman and the federal prisons in Port Sudan and Sawakin. On his way to the Nuba Mountains he also visited the prison in El-Obeid. In the Nuba area, he stayed in Dilling and Kadugli, from which he made trips to several surrounding villages and so-called "peace camps". In Wau, the Special Rapporteur paid visits, inter alia, to the prison and the displaced-persons camps.

13. In the course of his mission, the Special Rapporteur was received by several government authorities, including the Minister of Justice and Attorney General, Mr. Abdel Aziz Shiddo; the Commissioner General of the Unified Police Force, Major-General Hassan Ahmad Siddiq; the Minister of Housing and Public Utilities and Minister of Health and Director General, Displaced Persons Department, Khartoum State, Mr. Sharaf Al-Din Banada; the State Minister for Foreign Affairs, Mr. Gabriel Roric; the Chief Justice, Mr. Jalal Ali Lotfi; the Commissioner of Relief and Rehabilitation, Mr. Awad Khalifa; the Deputy Secretary-General of the National Conference, Mr. Al-Shafi'a; High Court Judge, Mr. Mohammed Hamad Abu Sin; the State Minister for Presidential Affairs, Mr. Ghazi Salahuddin Atabani; Commissioner of Voluntary Work, Mr. Abdul Rahman Abu Dom; and the Commissioner for Refugees, Mr. Abdul Rahman Sir Al-Khatim.

14. The Special Rapporteur also met with Ms. Muna Farida, Head of the Appeal Court of Khartoum State.

15. Furthermore, a meeting was arranged with the Secretary General of the Popular Arab and Islamic Conference, Mr. Hassan Al-Turabi.

16. The Special Rapporteur also had meetings with the Sudan Council of Churches, the Sudanese Women's General Union, the Sudan Council of Voluntary Agencies and several representatives of national, Islamic and international humanitarian organizations.

17. In addition to the above, the Special Rapporteur met the following representatives of banned political parties: Mr. Sadiq Al-Mahdi, former Prime Minister; Sid Ahmed Al-Hussein, Secretary of the Democratic Unionist Party; Mohammed Ibrahim Nugud, Secretary General of the Sudanese Communist Party; Samuel Aro Bol, President of the Southern Sudanese Political Association; and Aliaba James Surur, President of the Progressive People's Party.

18. At Khartoum, the Special Rapporteur met a further 41 individual citizens. The Special Rapporteur had free and private talks with 18 detainees and 10 children in the children's camp Abu Dom.

19. Subsequent to his visit to the Sudan, the Special Rapporteur paid a visit of six days to Kenya, from 24 to 29 September 1993. There he had meetings with representatives of the SPLA-Torit and the SPLA-United, several United Nations specialized agencies and international non-governmental organizations, together with relevant individuals. He also visited the UNHCR refugee camp, Kakuma, in order to hear testimony from Sudanese refugees. From Kenya, the Special Rapporteur was able to visit different locations in the SPLA-controlled areas in the Sudan, where he received oral testimonies as well.

20. From Kenya, the Special Rapporteur travelled to Egypt where he spent two days, 30 September and 1 October 1993, at Cairo. At Cairo, the Special Rapporteur had meetings with the Sudan Human Rights Organization, the Arab Lawyers Union, representatives of the National Democratic Alliance, trade unionists, the Sudan Women's Forum and the Nuba Mountains Organization Abroad. The Special Rapporteur also received many personal testimonies from Sudanese exiles who claimed to be victims of human rights violations. During his visit to Cairo the Special Rapporteur also met with the Ambassador of the Sudan in Egypt. Furthermore, four Sudanese students with bursaries in Egypt came to see the Special Rapporteur on their own initiative.

21. On 15 October 1993, a second meeting took place with the Permanent Representative of the Sudan to the United Nations Office at Geneva.

22. In carrying out his task, the Special Rapporteur sought and received information from different sources. Oral testimonies were received from victims and eye-witnesses of alleged human rights violations. The Special Rapporteur also received a significant amount of information in the form of written reports and testimonies, documents, photographs and videotapes from various non-governmental organizations and individuals. From the Government of the Sudan, the Special Rapporteur received considerable documentary information.

23. In the course of his mission and thereafter, the Special Rapporteur addressed three letters to the Minister of Justice, dated 12 September, 16 September and 6 October 1993, citing concrete allegations and asking for explanations. In a letter dated 22 September 1993 from the Minister of the Interior, which was received through the Minister of Justice, the Government of the Sudan replied to the letter of 16 September 1993 concerning the living

conditions in the women's prison in Omdurman. Relevant parts of the correspondence are summarized in section III. In most cases, the Special Rapporteur is, however, still waiting for explanations. By a note verbale dated 18 October 1993 (see appendix), the Permanent Mission of the Republic of the Sudan informed the Centre for Human Rights of the establishment of the Higher Coordinating Council for Human Rights and an office to receive complaints on abuses by the security forces.

24. The Government of the Sudan cooperated with the Special Rapporteur by arranging the meetings he had requested. The meeting with the President, although it was initially in the official schedule, was cancelled in the last moment. The Government of the Sudan further facilitated visits to the locations the Special Rapporteur wished to see. No objections were raised by the Government of the Sudan against a visit to the SPLA-controlled areas in southern Sudan and the Nuba Mountains. From the side of SPLA, full cooperation was granted for the travel in the areas controlled by them. However, as a consequence of security considerations, it was decided to cancel the visit to the SPLA-controlled part of the Nuba Mountains. In this respect, it is to be noted that the Government of the Sudan, despite the fact that it conveyed orally that it had no objections to such a visit, did not reply to an official request for approval of the flight.

25. On 23 September 1993, four women, who had just met with the Special Rapporteur, were arrested by the Sudanese police in front of the United Nations office. The Special Rapporteur witnessed two women being dragged on the street and forced into a police vehicle. A few minutes later the police arrested, in the view of many witnesses, a group of about 25 persons, mainly women, who had been waiting in front of the United Nations office to meet the Special Rapporteur.

26. Having invited the Special Rapporteur to visit the country, the Government of the Sudan implicitly accepted the terms of reference set out for human rights missions, including assurances by the Government that no persons, official or private individuals, who had been in contact with the Special Rapporteur in relation to his mandate would for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings. However, the Special Rapporteur has received reliable information that several persons who met with him have been questioned and arrested by police and security forces. Details of these incidents may be found in section III below.

II. LEGAL FRAMEWORK

A. General obligations of the Government of the Sudan

27. The obligations under international law which the Sudan is bound to respect reside, in the first place, in the international instruments to which the Sudan has acceded. As a Member State of the United Nations, the Sudan is therefore bound by the Charter of the United Nations. Further, it is obliged to respect the human rights and fundamental freedoms of all persons within its territory, as contained, inter alia, in the following instruments to which the Sudan has become a party: the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the

International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Rights of the Child; the Slavery Convention, as amended; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; the Convention relating to the Status of Refugees and its additional protocol.

28. As a member of the International Labour Organization, the Sudan has ratified its conventions concerning Forced Labour (No. 29), the Abolition of Forced Labour (No. 105), the Right to Organize and Collective Bargaining (No. 98), Employment Policy (No. 122) and Discrimination in respect of Employment and Occupation (No. 111).

29. On 23 September 1957, the Sudan became a party to the four Geneva Conventions of 1949, containing humanitarian rules for armed conflicts.

30. Further, it is to be noted that the Sudan signed the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Although the signature has not yet been followed by ratification, the Sudan has, by signing, shown the intention to accept these conventional obligations and, under customary international law as reflected in the Vienna Convention on the Law of Treaties, is obligated not to do anything which would defeat the object and purpose of the Convention against Torture, pending a decision on ratification.

31. In addition to the obligations arising from conventional international law, the Sudan is also bound to respect the standards of international customary law.

B. The context of violations

32. In this interim report, the Special Rapporteur does not address all the allegations which have been brought to his attention. In his report to the Commission on Human Rights at its fiftieth session he will, however, report fully on all allegations concerning human rights violations in the Sudan. His final report will also include the following issues: slavery, slave trade and other institutions and practices related to slavery; the death penalty and other penalties inconsistent with the provisions of international norms as contained in international documents binding on the Government of Sudan; freedom of movement and residence; the right to leave the country or to return; nationality; displacement; arbitrary interference with privacy; freedom of conscience; freedom of expression, association and peaceful assembly; the rights of the child and the rights of women; and the right to education and to enjoy culture.

33. Directly linked to the armed conflict is the refugee problem and the problem of displacement. Deliberate attacks against the populations in the conflict zones have forced many civilians to leave their homelands. According to World Refugee Survey 1993, 5 million Sudanese have been internally displaced by the conflict and natural disasters. There are 263,000 Sudanese refugees living in Zaire, Uganda, Kenya, the Central African Republic and Ethiopia, according to World Refugee Survey 1993. In his report to the Commission on Human Rights on internally displaced persons, 1/ the Representative of the Secretary General on internally displaced persons mentions the figure of 5 million displaced Sudanese. He states further that about 500,000 have been

forced to seek refuge in neighbouring countries. The Special Rapporteur visited several camps for displaced persons in the north and the south of the country. He also visited the refugee camp Kakuma in Kenya, where 28,967 refugees lived as at 20 September 1993.

34. Among the victims of violations are members of banned political parties, trade unionists, journalists, civil servants, students, Christians, members of Islamic religious orders, people from southern Sudan and Nuba. In so far as the Special Rapporteur received allegations regarding the whole range of human rights recognized by the United Nations, he has concluded that almost all aspects of life are concerned.

III. REPORTED HUMAN RIGHTS VIOLATIONS

A. Northern and southern Sudan

1. Extrajudicial killings and summary executions

35. Reports on extrajudicial killings and summary executions were received by the Special Rapporteur from different independent sources. The most serious case reported was the arrest, disappearance and killing of hundreds of civilians and army officers following an SPLA attack on Juba in June and July 1992. Employees of foreign relief organizations were also victims of reprisals.

36. In November 1992 the Government established a committee to investigate the Juba incidents. In June 1993, the committee reportedly announced that it would submit its report to the Government at the end of the month. In a meeting with the Chairman of the committee, the Special Rapporteur inquired about the results of the investigation. The Chairman replied that the committee had already studied many documents and had also paid a four-day visit to Juba in April 1993. The information gathered was, however, not sufficient for a thorough investigation, he said. The committee therefore considered it necessary to visit Juba a second time. But owing to a shortage of fuel for air transport, this visit had not yet taken place. The Special Rapporteur asked about the number of sentences pronounced by special military courts, which reportedly were set up and operated in Juba after June 1992. The Chairman of the committee was not able to provide any answer to this question, although according to information provided before by other authorities, in such cases, capital sentences pronounced by special courts were to be referred to Khartoum to be confirmed by the head of the State. The Special Rapporteur attached to the letter dated 12 September 1993 to the Ministry of Justice a list of 230 names of individuals who were allegedly arrested in Juba between June and August 1992. The whereabouts of the majority of them remain unknown and fears have been expressed that many of them have been extrajudicially or summarily executed. During the meeting with the Chairman, the Special Rapporteur emphasized the great concern of the international community regarding this specific case and the need for a complete and public clarification of the issue. Although the above-mentioned events took place before his appointment, the Special Rapporteur decided to mention this case because during his September mission and in the weeks thereafter reliable information was received indicating that the practice of extrajudicial killings, summary executions, arbitrary arrests and detention

without trial continued during 1993 in Juba and surrounding villages under the control of the Government of the Sudan.

37. Many reports have been received concerning indiscriminate and deliberate aerial bombardments by government forces of civilian targets, e.g., camps for displaced persons, in the SPLA-controlled areas. During an attack on 5 August 1993, government forces bombarded the town of Kaja and surroundings, including the displaced persons camps for displaced persons of Yundu and Dudulabe. The Special Rapporteur received consistent testimonies from people who had managed to escape the attacks on the Yundu camp for displaced persons. They reported that the bombardments started in the morning and were followed in the afternoon by attacks by ground forces, which entered the camp shooting indiscriminately in all directions, killing and injuring many people. People started to run and several were killed in their flight.

38. Joint forces of Arab militia and the official paramilitary Popular Defense Forces have reportedly killed hundreds of civilians along the railway tracks between Babanusa and Wau, in northern Bahr Al-Ghazal. In February-March 1993, armed troops on horseback preceded a train moving slowly from Babanusa to Wau. As the train proceeded, the troops raided the villages along the railway, looted cattle, burnt houses, granaries and fields, abducted women and children (later reportedly released) and killed civilians who resisted. A witness gave the Special Rapporteur the following account:

> "The railroad tracks pass next to where I live. In February 1993, a train heading towards Wau came and everybody ran away when they heard it coming. Soldiers were walking on each side of the train and were shooting on the area and sometimes torching houses. When we returned, we found the dead bodies of Alaio, a cousin from my mother's side, and of Mojok, a married man with one son, who was a cousin on my father's side."

39. In July-August 1993, it was reported that another train coming from Babanusa was on its way to Wau. Paramilitary forces, armed with guns and riding their horses some miles ahead of the train, reportedly raided the neighbouring areas between the stations Aweil and Gette within a range of approximately 14 miles. It should be noted that the local authorities in Wau, including the Vice-Governor, were informed about these events. The Special Rapporteur also wishes to point out that this is only a summary account and that the whole issue will be developed in all its details in the final report.

2. Enforced or involuntary disappearances

40. Several reports on enforced or involuntary disappearances during 1993 have been brought to the attention of the Special Rapporteur. Some refer to cases of persons who were arrested by security officers and subsequently taken to one of the secret detention centres, known as "ghost houses". On the way to these detention centres, the arrested were reportedly blindfolded so that they could not orient themselves. In the "ghost houses", they were subjected to severe torture for a period of a few weeks to several months, completely cut off from the outside world. Family members were not informed about their fate and whereabouts. Some of those reported "disappeared" could later be located through contacts or because they were released or sentenced and taken to a

normal prison with the knowledge of their family. Some others are reportedly still "disappeared", like Sayed Omer Awad Abu Garja, ex-employee of the Forests Administration, whose case was taken up by the Working Group on Enforced or Involuntary Disappearances. It was reported that he was arrested in June 1993 in Damazeen. On 15 July, he was reportedly detained in an alleged "ghost house", house No. 114, near the electricity administration building in Wad Medani. He was reportedly in poor health and bore marks of torture. Allegations have been received that he was transferred to a prison in Khartoum, but to date the authorities have not disclosed his present whereabouts. Most of the cases of disappearances reported for the last four years still remain unclarified.

3. Torture and other cruel, inhuman or degrading treatment

41. The Special Rapporteur has received numerous reports indicating widespread and systematic torture and ill-treatment of political detainees by Sudanese security forces. Some of these reports were corroborated by testimonies the Special Rapporteur received in person during his mission.

42. Detainees were often reportedly subjected to torture immediately after their arrest. Torture is said to be particularly common in the security offices and the secret detention centres, the "ghost houses". In the conflict zones, torture is reported in particular in the military detention centres.

43. The methods of torture and ill-treatment which are reportedly used include kickings; beatings with truncheons, plastic tubes and whips; pouring of hot and cold water on the body; burnings; electric shocks, also on sensitive parts of the body; deprivation of food, water and rest; denial of medical care; threats of disappearance; and mock executions. Some of the persons interviewed said that they had been severely kicked and beaten in front of their family members before being taken away.

44. Degrading treatment has also been reported. One witness told the Special Rapporteur that he had been forced to lie and move in the mud and was not allowed to wash himself for one week. Another time, he was put in a row with other prisoners and given a handful of sorghum. He had to count the sorghum and hand it over to the next in the row, who had to count it again and then hand it over, etc. If there was a discrepancy in the counting, the person would be subjected to severe beating and kicking.

45. Reports have also been received on a method of harassment in the northern part of the country, in particular in Khartoum. People suspected of oppositional activities against the Government are called to a security office for questioning in the morning. There they are made to wait until the end of the day without being questioned and often without being given food or water. At the end of the day they are sent home and ordered to come again the next day. This method of harassment, constituting a restriction of the freedom of movement, is often said to continue for several weeks to several months. This practice was generalized during the last year, reportedly starting with the last trade-union election.

46. At the end of April this year, the authorities reportedly arrested 15 persons suspected of plotting against the Government. Some of them, including Colonel Mustapha Ahmed Al-Tai and Osman Mustapha Mahjoub, were shown on Sudanese television on 26 April 1993. In order to verify the information received, the Special Rapporteur had requested the Government, during his mission, to see some of the persons who were allegedly involved in a coup d'état. However, his request remained unánswered.

47. Serious reports of torture and ill-treatment have been received on the case of retired Brigadier Mohammed Ahmed Al-Rayah, who was reportedly arrested by security forces on 20 August 1991 and sent to Sawakin prison. When visiting Sawakin prison, the Special Rapporteur requested to see Al-Rayah. The Director of the prison confirmed that Al-Rayah had been detained there, but said that he was transferred for one week to Kassala prison. However, after one week he was to be taken back to Sawakin. Regarding the sentence, the Director said that Al-Rayah had been sentenced to 10 years' imprisonment charged with rebellion. The Special Rapporteur also raised the case in a letter dated 12 September 1993 to the Minister of Justice. A reply has yet to be received. In this connection, the Special Rapporteur notes that he has received information indicating that just before his visit to Sawakin prison about seven prisoners were kept separately.

48. Another report concerned the death under torture in December 1992 of Camillo Odongi Loyuk, an elderly man and former army officer who was arrested in Khartoum in August 1992. He was reportedly tied to the bars of a window with his arms and legs apart. A rope with a noose was then tightened around his testicles. Thereafter he was reportedly beaten to death.

49. During his mission, the Special Rapporteur visited the women's prison of Omdurman and the prisons of Port Sudan, Sawakin, Al-Obeid, and Wau. With regard to the prison conditions, it appeared that the quality of food and sanitation do not meet the minimum standards of hygiene. Food was sometimes served on an irregular basis. In Wau, prisoners were reportedly denied food for several days a week. The poor hygienic conditions were said to cause different types of illnesses. In many cases, medical care seemed to be insufficient or even absent. In the prison of Wau, prisoners sleep on the floor. In the prison, the floors would get wet during the rainy season, depriving people of a dry place to sleep. In all prisons visited, flogging and beating was reported.

50. Having visited the women's prison in Omdurman, the Special Rapporteur addressed a letter dated 16 September 1993 to the Minister of Justice, in which he expressed his concerns about the prison conditions. He referred, in this respect, especially to the large number of prisoners who have their babies with them. In a reply dated 22 September 1993 from Staff Brigadier Eng. Abdul Rahim Muhammed Hussein, Minister of the Interior, which was sent through the Minister of Justice, the Minister of the Interior said that he had issued instructions for urgent measures in order to improve the food and sanitary conditions. Other instructions concerned the insurance of the welfare of the children of the female prisoners and the establishment of a fact-finding commission to investigate the allegations of beatings and ill-treatment. The Minister of Interior further wrote that an amount of 5 million Sudanese pounds had been appropriated for urgent maintenance of the prison. The Special

Rapporteur welcomes the above-mentioned measures and looks forward to viewing the improvements during a subsequent visit to Omdurman prison.

4. Arbitrary arrest and detention, and due process of law

51. Information received by the Special Rapporteur indicates that arbitrary arrest and detention is routinely practised. Many incidents of arrests without warrant by the security forces have been brought to the attention of the Special Rapporteur. He received testimonies from several persons who had remained for weeks or months without charge in the so-called "ghost houses". Family members were not informed about the place of detention.

52. The Special Rapporteur considers - based on information received from competent government agencies as well as from those directly concerned - that the practice of collecting so-called street-children all over Khartoum remains unclarified. It is not at all clear what procedure is followed, in fact, in such cases; who is in charge of the operation; which are the criteria on which a child is qualified as a "street-child", "vagrant", "orphan" or "abandoned"; what the exact purpose is of moving these infants to camps in remote areas far from the capital; or what will happen after they are released. Allegations received in the form of written and oral testimonies claim that most of these cases are, in fact, arbitrary arrests and detention without due process of law. Government officials provided the Special Rapporteur, for instance, with the text of the Juvenile Act. The English translation of this Act, entitled the Juvenile Welfare Act, provided by the Ministry of Justice, contains very clear language. Unequivocal definitions are given, inter alia, to the following concepts: "juvenile", "vagabond", "delinquent", "welfare home" and "reformatory homes". According to article 4 (g) of this Act, the Juvenile Police is competent to "arrest the vagabond or the delinquent and keep him in the remand home". According to article 2 of the same Act, a "vagabond" means "a juvenile exposed to deviation or who is homeless or unable to specify his place of living, or unable to guide the police to his guardians or cannot give enough information about himself or practising and without prejudice to the generality of the foregoing, a juvenile is a vagabond if he: (a) sleeps in roads; (b) is idle with no guardians; (c) is astray and does not obey his parents or whoever takes care of him; (d) is a beggar; (e) practices dealing with prostitution, corruption or immorality; (f) is closely associated with suspects deviated or criminals". In accordance with this law, juvenile courts were created in order to "see the cases of vagabondry and delinquency which the juvenile is accused of". The rules of procedure are established by the same Act. However, the exact date of the adoption of this law does not appear on the copy provided by the Ministry of Justice. No specific reference was made to this Act during the visit to the camp. The explanation provided to the insistent question of the Special Rapporteur to what happened actually when a child was collected, was unsatisfactory and contradictory. For instance, it was mentioned that these operations are carried out sometimes also by non-governmental organizations and that the whole issue is motivated mainly by humanitarian purposes and not by delinquency or vagabondry. At the same time the Director of the children's camp of Abu Dom, 100 km north of Khartoum, said that the children were often found sleeping on the street, sniffing glue or drinking alcohol. They would be taken to a reception camp called Soba near Khartoum, where the authorities would try to trace their family members. If, after one week, no famil, members had been

contacted, the children would be taken to the children's camp, where they would get food, shelter and education. However, some alleged victims claim that they had been rounded up simply while they were helping or playing at a marketplace and that their family members lived nearby. According to the allegations received, their families were simply not contacted. Escape attempts were said to be punished. The Special Rapporteur wishes to point out that this issue will receive further attention in the final report, since the present section is mainly concerned with allegations of arbitrary arrest and illegal detention.

53. Scores of names were received of persons who were kept in detention without trial. A list of 94 persons reportedly arrested in 1990 and 1992 in the towns of Dilling, Umm Heitan, El-Obeid, Lagawa and Kadugli was submitted to the Government of the Sudan by the Special Rapporteur on 6 October 1993. It has been alleged that several of these persons were not tried before a court.

54. In cases where a trial did take place, allegations have been received that they did not meet the international standards for a fair trial. Access to legal counsel was said to be restricted or, in some cases, even absent. In this connection, the Special Rapporteur refers to the case of Kamal Mekki Medani and nine others, who were reportedly arrested without warrant on the night of 2-3 September 1993 in the town of Wad Medani and kept until the next day. They were accused of having organized a political meeting in the house of Kamal Mekki Medani and questioned about their relation with Amin Mekki Medani, brother of Kamal Mekki Medani, opposition member and President of the Sudan Human Rights Organisation. On 11 September 1993 they were, however, convicted of alcohol consumption and sentenced to 40 lashes by a public court in Wad Medani. The owner of the house was also sentenced to a fine and four months imprisonment. During the trial, the lawyer of the accused was reportedly denied the opportunity to read his defence plea, and witnesses were not permitted. Moreover, a medical report indicating that no alcohol had been found in their blood was not taken into consideration. Instead, the judge apparently based the sentence on the statement of the security officers who said that they had smelt alcohol. One security officer reportedly admitted that he had beaten Kamal Mekki Medani, but, according to the information received, no disciplinary measures were taken against him. The Special Rapporteur asked the Commissioner of Police if in similar cases a blood test was mandatory for establishing evidence of the consumption of alcohol. The answer to this question was negative.

5. Reprisals

55. The Special Rapporteur has received reliable information that several persons who had tried to contact the United Nations office during his visit to the Sudan or who had actually met the Special Rapporteur in relation to his mandate have been questioned and arrested by police and security forces.

56. Priest Aliaba James Surur, who met with the Special Rapporteur on 12 September 1993, was, according to his account, picked up at his home the following morning at 7 a.m. and taken to Security Headquarters at Khartoum, where he was kept for five hours. He claims to have been told to "be careful, the Special Rapporteur is now still here, but he will leave in two weeks and you will remain here".

57. On 19 September 1993, two representatives of the displaced students from southern Sudan presented a memo to a United Nations official at Khartoum, protesting against the closure of their schools. One of them, John Lokwer, was reportedly arrested after he left United Nations premises. His arrest was reported to the United Nations official the next day, on 20 September 1993, by two students representing a group of students who had gathered in front of the United Nations compound. Uniformed and armed police and security were present at the peaceful demonstration. The two students who reported the arrest were accompanied by a uniformed police officer and a security officer. As the police and the security officers left United Nations premises, they promised that John Lokwer would be released. A few minutes later a number of students were reportedly rounded up by the police in front of the United Nations office. Later, the authorities announced that the students were released, but to date no confirmation has been received.

58. At 1.30 p.m. on 23 September 1993, four women who had just communicated information to the Special Rapporteur were arrested by members of the police in front of the United Nations office at Khartoum. The Special Rapporteur witnessed two women being dragged on the street and forced into a police vehicle. A few minutes later, the police arrested, in the view of many witnesses, a group of about 25 persons, mainly women, who had been waiting in front of the United Nations office to meet the Special Rapporteur. Several were reportedly beaten up by police officers. The arrests took place despite reported assurances from government authorities that the peaceful assembly of the petitioners would not be interfered with.

59. In this connection, the Special Rapporteur would also like to note that security officers, presenting themselves as visitors, have frequented the United Nations library at Khartoum during the Special Rapporteur's mission. They reportedly harassed library visitors.

60. The Special Rapporteur raised several of the above cases with the Minister of Justice. The Minister replied that he would look into the cases, but said that some might have been arrested because they constituted an unlawful assembly under Sudanese law. He promised to send a detailed reply to the Special Rapporteur. However, to date no reply has been received.

61. With respect to these incidents, the Special Rapporteur is extremely concerned that those who had contacted the United Nations office during his mission and had come to speak with him have been subjected to reprisals. This fear is especially warranted given the apparent threat directed to Aliaba James Surur, as recounted above. The Special Rapporteur also wishes to note that, notwithstanding any consideration on the validity of the laws which may have been invoked, the effective result of these incidents was interference with the Special Rapporteur's investigations.

B. Central Sudan: the Nuba Mountains

1. Introduction

62. The piece of land commonly known as the Nuba Mountains is an area of approximately 30,000 square miles and it is located almost in the geographical centre of the Sudan. The administrative subdivisions in this territory belong to Kordofan State. In the 1980s, according to independent sources, the total number of indigenous people in the Nuba was around 1 million. This population is composed of a number of smaller communities, with distinctive ethnic, religious, cultural and linguistic features. Scholars identified at that time more than 50 languages and dialects, falling into 10 principal groups. Arabs were living together with tribes such as Daju, Tegali, Koalib, Tumtum, Talodi or Nymang. The name of the group often coincides with the name of the main village inhabited by them. Animist Africans, Christians and Muslims used to live together in past decades.

63. Social conflicts, mainly on a tribal basis, have occurred from time to time, but a settlement was reached in most of the cases according to local customs and traditions. However, these conflicts did not jeopardize either the historical relationship of different communities with their native lands and cultural environment, or the preservation of their ethnic and cultural identity. Intermarriage, or even the existence within the same family of persons belonging to different faiths, was not unusual. Beginning in the mid-1980s this situation changed dramatically. If the present process of uprooting of the Nuba communities is not stopped soon, it may be irreversible. This is the main reason for dedicating a separate section within the report to this issue.

64. Since geographically the Nuba Mountains area belongs to the north, opinions diverge concerning the political appurtenance of this area, if the conflict between the north and the south is considered. The precedents of recent conflicts started on a greater scale in 1983, when, as a consequence of former President Numeiri's new policy focusing on the implementation of Islamic Sharia law, local tribal administration was abolished. After this, bloody clashes between Arab and non-Arab groups became regular. Looting and raiding also became common. The first SPLA incursion in the Nuba took place in 1985, when more than 100 citizens were killed in an Arab Baggara inhabited village, Gardud, in the eastern part of the Nuba Mountains.

65. In 1987, the Ministry of Defence of the democratically elected Government of former Prime Minister Sadiq al-Mahdi initiated training and supply programmes for anti-SPLA tribal militias in southern Kordofan. These Arab militias were later known under the name of Murahalin. From that time, the situation has continued to deteriorate.

66. Part of the tribal militias were reorganized in 1988 as Popular Defence Forces (PDF). The situation of these paramilitary units was legalized by the promulgation by the present Government of a decree in November 1989. Hundreds of thousands of unarmed civilians are now completely exposed and defenceless to all kinds of atrocities committed on the one side by PDF, the army and other Government of Sudan agencies, and on the other side by SPLA troops controlling a large part of the Nuba Mountains. In addition, most of these citizens were lacking, in those years, basic health care, education and sometimes even food.

As a consequence, those who managed to survive attacks and who were not taken away decided themselves to leave their native lands. They form now part of the population of displaced camps all over the country.

67. For years, communication with the external world has been very difficult. In the last four years, international non-governmental organizations or independent observers have not been allowed to station or to operate in this area. During the last two years, a very few assessment missions had limited access to what was actually happening in the region. Sometimes it takes months to gather and to check information about specific events. In the meantime, all over the government-controlled area there is a visible and very strong military and PDF presence, as will be described below. In different villages, as well as in the countryside, many civilians can be seen carrying guns.

68. Humanitarian activities are carried out by national non-governmental organizations only in government-controlled areas.

2. General aspects

69. The visit of the Special Rapporteur to the Nuba Mountains area took place between 17 and 21 September 1993. For security reasons, visits to Umm Sirdiba, Umm Rakuba, Umm Dorein and Lagawa were cancelled at the last moment. The Government of Sudan, understandably, did not give clearance for travel across the front line. Some locations, such as Heiban, were, from the very beginning, excluded from the list, either for security reasons or because it was impossible to travel there during the rainy season. A visit to SPLA-controlled areas envisaged as a non-cross-line mission was cancelled, also at the last moment, for security reasons. It is to be stressed again that the Government of Sudan did not oppose such a visit, but in the same time did not give any written clearance for flights to these areas with departure from locations that are not under its control.

70. As a consequence, during this first mission, the Special Rapporteur visited only locations under Government of Sudan control. The evidence gathered on this occasion relates to cases of gross violations of human rights committed in the area. It should be mentioned again that given the complexity of this issue these cases must be considered as elements of a larger context. This context is marked by an ongoing and in many respects already self-generating process of eradication of the traditional Nuba community structure. It is for this reason that the present section of the interim report does not deal only with events that occurred mainly in 1993, but goes back to the 1980s. The responsibility of both the Government of Sudan and SPLA must also be emphasized.

71. On 17 September the attempt to land in Dilling failed because of a wet airstrip. The delegation - members of the mission and two government officials from Khartoum - returned to El-Obeid and drove back to Dilling. The time of this stopover was used to visit El-Obeid prison.

72. In Dilling, the Special Rapporteur was informed by members of the so-called "Peace Group" that they were dealing with the general relief, health, education, and accommodation problems of displaced persons in southern Kordofan, in the districts of Dilling, Kadugli, Salam and Rashad. As it was found out later, the

complete name of this government body, which was also in charge of the logistics of the mission of the Special Rapporteur to the Nuba Mountains, was Peace and Resettlement Administration for South Kordofan. The representatives of the Peace and Resettlement Administration gave the following information: in several locations in the area, owing to continuous SPLA attacks and harassment of civilians, 130 schools and 70 health centres were closed down in the last few years. Two million acres of cultivated lands were practically out of use. At the same time, according to statistics of the Peace and Resettlement Administration from September 1992, there were in the area, at that time, 91 displaced camps ("peace villages") with a total population of 167,265. The influx of returnees varies: there are days when almost 100 returnees come in and there are periods when nobody comes. Twenty per cent of the returnees are between the ages of 15 and 45 (65 per cent of them women), the remaining 80 per cent being children under 15 and elderly persons over 45 years old. These figures refer to the four above-mentioned areas. According to SPLA sources, an estimated population of 200,000 to 250,000 is still in the area of the Nuba Mountains under their control.

73. The information gathered needs no special comments. Mohammed Zahwa, Chief of the Wali tribe (west of Dilling) told the Special Rapporteur during the official meeting with representatives of the Peace Group and chiefs of tribes in Dilling that his tribe once of approximately 29,000 souls was completely displaced from its native land. Nine thousand of them are in Dilling and Angarko camp, the rest being scattered all over the country. He mentioned that the main village of his tribe was burnt down by 40 army troops on 1 August 1989.

74. All chiefs of tribes met by the Special Rapporteur in Dilling underlined that the displacement of people in Dilling district started in the summer of 1989. The Chief of the Salara tribe said that his tribe coexisted peacefully until 1989 with other groups, and that "the Nuba formed one community up to that date". The Chief of the Katla tribe said that, over the last four years, 67 children and women were killed by the rebels, and "2,000 tribal people are under camp-arrest in the Katla Mountains". It must be noted that according to several reliable independent sources the Katla tribe is especially targeted by the Government of Sudan forces because it is suspected of close collaboration with SPLA.

75. The next day, on 18 September, the mission visited Salara, a location 20 km west of Dilling. A Government of Sudan source indicated in April 1993 that Salara was a "peace village" in the Dilling-Kadugli area. The United Nations team that assessed the area in March 1993 did not visit Salara, but noted that an estimated 1,700 displaced persons were at that time still there. No national non-governmental organization was reported as providing services there. The Special Rapporteur received the following information from local people: the number of people still in Salara is around 2,500. Five to 10 persons leave weekly for Dilling. The area was attacked for the first time in 1991 (village of Kook). The last attack took place on 3 September 1993 on the village of Shibli and two people were killed. Upon arrival in Salara, the Special Rapporteur was introduced to an old man who had recently escaped from the village of Shibli. He told the Special Rapporteur the following about an attack on 3 September 1993:

"I was from Shibli, a village near a hill not far from here. It was in the evening that the shooting started. They entered every house, took all valuables and killed Mohammed Musama, 35 years old, and Duldum Musama, who was about 50 years old. They had uniforms and weapons, the same as the army. There were 21 rebels. We killed two of them. Now I cannot sleep at night. For four years I have no rest."

76. The Government considers Salara a "peace village". Villagers mentioned, however, that the army and PDF units stationed in Salara are not able to provide efficient protection to people in the targeted area, and, in fact, everybody is preparing to leave sooner or later. It is to be mentioned that on the Special Rapporteur's request for a list of "peace villages" in the region, the Peace Group representatives listed Salara again as a "peace village".

77. Along the road from Dilling to Salara there is a deserted small village, Hajr Sultan, previously inhabited by approximately 2,000 families belonging to the Nimanji tribe. The first attack on this village, according to Ismail Sunna, the Chief who is living now in Dilling and accompanied the mission, took place in 1990. He alleged that owing to repeated SPLA incursions all the people from that location were displaced. The last six villagers left the week before the Special Rapporteur's visit. The Special Rapporteur saw empty huts that appeared to have been out of use for at least one year, since they were covered by creeper. No traces of fire were seen.

78. Before leaving for the district of Dilling, the Special Rapporteur paid a short visit to the Angarko camp for displaced persons, 5 km south-east of Dilling. According to a UNICEF report of March 1993, the total number of displaced persons in the camp at that time was 3,270. According to Government of Sudan officials, the population of the camp during the Special Rapporteur's visit was 1,222. No convincing explanation was given for this significant difference. South of the camp there is a large agricultural area, where displaced people, according to the UNICEF report, grow their own crops in a large cooperative scheme. The Special Rapporteur saw a lot of people working on this place in the afternoon during his way to Kadugli. It must be mentioned that the whole area is marked by a strong military presence. To travel from Dilling to Kadugli is possible only by joining the daily military-escorted car-convoy, starting at 11.00 a.m. from Dilling. It must also be noted that along the road from Dilling to Kadugli a lot of armed civilians were seen, walking around apparently without any specific reason.

79. As a general impression, the Special Rapporteur would like to note that his visit in Dilling and surroundings was carried out under strict security, which was not hidden at all. An impressive military escort was also provided. The Special Rapporteur expressed his desire to walk with his team around the market on the evening of 17 September. The local authorities agreed, but an escort of at least 15 civilians accompanied the Special Rapporteur. During this walk, a man who was introduced to the Special Rapporteur as the local security chief showed to him a number of trucks parking next to the main road. He said that the trucks were transporting crops to northern Kordofan in order to help less wealthy areas of Kordofan State. The Special Rapporteur managed to talk to some individuals, and he was assured that the people of Dilling knew about his visit from foreign media coverage. Government of Sudan officials met with the request of the Special Rapporteur to speak privately to some individuals.

80. There are several reports on the declaration of jihad, or the holy war, in southern Kordofan by local authorities. According to Sudan Update, vol. 4, No. 11, spring-summer 1993, an organization called African Rights reported in January 1992: "The Wali (Governor) of Kordofan, together with the head of the militia, declares a jihad in the Nuba Mountains. Additional army units and mujahidin volunteers from northern Kordofan were brought into the area to swell the ranks of the Popular Defence Forces and existing army units." The Special Rapporteur notes that the mere existence of any organization called "militia", or persons called "mujahidin" is strongly denied by Government of Sudan officials, as well as the fact of the declaration of jihad. As a matter of fact, there is, on a hill situated along the road between Dilling and Kadugli, approximately 8 km from Kadugli, a large white inscription in Arabic "Kadugli, the jihad" which can be seen from some distance by those who are travelling on this route. The inscription can be seen very well during the day also by people of displaced camps around Kadugli.

81. In Kadugli, the Special Rapporteur had official meetings with four Nuba chiefs: Mohammed Al-Zaki Ali, Emir of southern Nuban tribes; Osman Bilal Hamid, Emir of Hawazma-Rawanya of Kadugli; Mohammed Rahma Lashu, Emir of the tribes of Heiban; and Kafi Tayar Badin of the Shat tribe. Separately, the Special Rapporteur also had an official meeting with 30 chiefs of different factions from the Kadugli district. A briefing was arranged with Major Adel Abdul Rahman Mohhan, the commander of local PDF forces. The Special Rapporteur, during his visit to Kadugli, also had private meetings and received testimonies from 17 individuals. The mission was accompanied in Kadugli district by the same members of the Peace and Resettlement Administration of Southern Kordofan and Government of Sudan officials from Khartoum. Impressive military and civil security escort was provided, as in Dilling.

82. The chiefs of the tribes said that SPLA was responsible for all atrocities committed and damages caused in the Kadugli area in recent years. According to their allegations, atrocities started here in August 1987, when a number of traders were killed in the village of Umm Dulu. During the last years, the most-targeted locations were: Umm Sirdiba, Agab, Hebeyil, Karkarai Al-Bira and Al-Hamra, from which a lot of people have been evacuated to government-controlled areas. Attacks took place also on: Tukswana, Abu Safifa, Dandur, Al-Bukhas (where, in November 1988, 60 people were allegedly killed on the same day, including the local chief), Tash, Al-Sha'ir, Bardad, Shat, Talodi, Kalogi, Al-Liri, Tess, Katcha and Al-Azrag. The following locations were mentioned as SPLA-controlled areas at the time of the visit: Eiri, Tudji, Kalkada, Umm Durdu, Tajura, Andarafi, Al-Azrag, Abu Jarkula, Sahab, Sirif, Shawaya, Kauda, Agrun, Lubi, Kubang, Timbera. The chiefs mentioned that local leaders and their relatives, especially, were victims of killings. The Special Rapporteur asked them to give an idea of the people still in their original villages.

83. No precise information was gathered concerning this aspect. The Emirs answered that in this respect there is "total confusion", and that they cannot even estimate the total figures. They mentioned villages like Al-Hamra, Abu Safifa, Dandur, Karkaraya, Tash, Tukswana, Agadas and Al-Atmur as still being inhabited by indigenous populations. In Al-Bukhas, some villagers moved back in 1993. Local chiefs or different factions gave the following account of empty villages: from 176 of their villages at least 73 were empty in September 1993, and some of the rest surrounded or besieged by SPLA troops. According to

individuals who gave testimonies, authorities in Kadugli, in several cases, facilitated departure, for instance by providing transportation by trucks. Heiban was mentioned as one of the examples; in 1989, 40 trucks transported people from Heiban to Kadugli.

84. During these official meetings, a very dark picture was drawn up. Allegations concerning a wide range of gross violations of human rights and atrocities committed by SPLA were formulated. Several cases of killings and torture of unarmed civilians, men, women and children, rape, kidnapping and forced military training of children, burning down of houses and looting were mentioned by local chiefs. Lists containing hundreds of names of victims were provided, as well as lists concerning material damages caused. On the other hand, SPLA sources gave a figure of 79 villages devastated allegedly by Government of Sudan troops since 1989. Independent sources also provided a list to the Special Rapporteur containing more than 400 names of, mainly, Nuba intellectuals or people who used to belong to local élites and who allegedly disappeared in the same period. Since, as mentioned, a visit to SPLA-controlled areas was not possible in September 1993, the Special Rapporteur considers that a field mission is necessary to clarify the situation and to gather further evidence from different sources, in accordance with the general methodology of this mandate.

85. The Special Rapporteur asked for visiting locations situated around Jebel Saburi (the hill of Saburi). He also wanted to visit the villages of Al-Atmur (36 km from Kadugli), Al-Hamra (29 km from Kadugli) and Kailak (117 km from Kadugli), where camps for displaced persons were mentioned. Local security and military officers warned the Special Rapporteur about the difficulties of access by car during the rainy season. Having in mind the experience of the travel to Jebel Saburi area, these visits were cancelled. To reach the closest village of the area took more than four hours because two cars were stuck in the mud. The day of 19 September was spent visiting two locations around Jebel Saburi, namely Saburi and Laguri. There were reports from reliable sources regarding recent army and PDF raids on villages around the hill of Saburi.

86. The Special Rapporteur gathered information in Saburi and Laguri as follows. In Saburi there is a population of 700 to 800. One year ago, the number was more than 2,000. The first SPLA attack in this area, but not on the village of Saburi, took place in 1988, according to local people who gave testimonies. The last one was in April 1993. Saburi was attacked in July 1992 and a man called Nimir lost his life. There is a PDF unit stationed in the village to defend inhabitants. The only schools in the area used to be in Al Efen, but it has been closed down since 1988. There is no health-care activity. Sick people have to go to Kadugli to consult a physician. The same situation exists in Laguri. The population of the village of Laguri in September 1993 was 1,653. The local chief said that since 1989 many people had left for Kadugli. He mentioned that Laguri was not attacked, but after 1991 some other villages in the surrounding area were attacked, as well as civilians who were with their cattle outside of the village. For instance, in March 1992 Regeijik Hammad's animals were taken away and Issa Sadiq lost his life when he, with others, tried to trace the aggressors. The Special Rapporteur saw a lot of people walking between Kadugli and these villages, both civilians and persons wearing uniforms as well. Some of the civilians were carrying guns.

87. Testimonies collected in different places from individuals with no relation to each other confirmed that some joint PDF and army incursions took place in the village of Ruseris in the Jebel Saburi area. The name of this village was mentioned by the local chief in Saburi as one which had joined SPLA. Later testimonies described the events as follows: during October 1990, Government of Sudan troops operated an incursion in Ruseris and rounded up villagers accusing them of cooperation with SPLA. Some of those taken away at that occasion were in Saburi in September 1993. A similar operation was carried out in November 1991. The local chief from Laguri was, at that time, in a village called Atraya and heard shooting from the direction of Ruseris. Forty local public employees and traders were taken away, witnesses said, and, since September 1992, nobody knows about their fate, although relatives were told that they are detained in El-Obeid prison. In November 1991, the same action took place in Saburi Saraf. At that occasion, 14 people were taken away by PDF and army troops.

88. The population of villages situated around the front line is the most exposed. Civilians living in such locations are continuously suspected by both sides. As many of the testimonies indicated, after fighting has taken place and SPLA troops have been forced to leave these places, PDF and army units are given orders to collect civilians - mainly women, children and elderly men - and to take them to Government of Sudan-controlled peace villages. Those who manage to escape from this kind of situation in most cases will leave of their own will because of the general insecurity and lack of basic needs. The cases of Umm Sirdiba and Kalkada are paradigmatic in this respect. The village of Umm Sirdiba was attacked by the army and PDF first in December 1990, witnesses said. Because of the resistance of SPLA units Government of Sudan troops were forced to withdraw, but since that time continuous fighting has taken place. The population of Umm Sirdiba is now scattered all over the country. The Special Rapporteur was told that in September 1993 the area was controlled by SPLA. The same happened in a village called Kalkada in the Heiban district. The difference is that there SPLA initiated attacks in 1989. In May 1990, the army, while chasing out the rebels from the village after an incursion, started to burn down houses. Sixty people were killed at that time, among them Mohammed Said (60), Carlu Lalu (40) and Al Makki Kardella (17). In June, another 20 were killed in Kalkada. Many women and children lost their lives, and most of the villagers left. As mentioned above, the area was controlled in September 1993 by SPLA.

89. Government of Sudan officials denied allegations of violations of human rights and atrocities committed by the army and PDF. The PDF Commander in Kadugli told the Special Rapporteur that PDF was created "by the people and for the people, to defend themselves by themselves" because the army was not able to cover and provide protection for "such a vast area". PDF members are provided guns by the Government of Sudan, and they operate strictly under the command of the army, according to the Commander. In different areas, PDF units are created by local people, and they elect the leader of the unit. At the same time, the Special Rapporteur must mention that there are some serious concerns about the efficiency of the military control over local PDF units. The area is indeed vast, on the one hand, lacking basic communication lines, as the Kadugli Commander mentioned; on the other hand, all over the area armed civilians are walking around for no apparent reason. In addition, the only formal

requirements to become a member of the PDF are Sudanese citizenship and the age of 18.

3. Special concerns

90. The Special Rapporteur, in this interim report, would like to draw attention to the specific cases in the Nuba Mountains area, which are discussed below.

(a) Extrajudicial killings and summary executions

91. In a letter dated 6 October 1993 to the Minister of Justice, the Special Rapporteur raised the case of Issa Sharif Ahmed, Musa Sharif Ahmed, Khalifa Adam Azraq and Ahmed Azraq, who, according to the information received, were taken away from El-Obeid prison at the end of May 1993 and executed by military intelligence in an area outside the village of Salara.

92. In the same letter, the Special Rapporteur gave the names of nine persons who were reported to have disappeared from El-Obeid prison. Three of these persons allegedly died as a consequence of torture and ill treatment: Ismail Sultan (April 1992), Kortobeir Bashir (June 1992) and Ibrahim Bashir (January 1990).

93. The allegations concerning killings committed by SPLA need further investigation.

(b) Enforced displacement

94. Witnesses have confirmed to the Special Rapporteur that during the summer of 1992 a great number of displaced persons were removed from camps around Kadugli to the northern part of Kordofan State following an initiative of authorities in El-Obeid. Reports mentioned the figure of 30,000 people. This might be the real figure, since people witnessing the operation told the Special Rapporteur that approximately 200 trucks were used to take away people. Muslims and Christians were driven away without differentiation, but, as sources mentioned, only Nubans were involved. Local people do not know what happened to these people later on. Only one witness mentioned to the Special Rapporteur that there was news circulating that some had died in Al-Nuhud camp in north Kordofan.

(c) Freedom of expression and freedom of movement

95. According to reliable information and testimonies received from different sources, the situation of Christians in the Government of Sudan-controlled areas in the Nuba Mountains remains particularly difficult, although, since May 1993, some improvement was reported. For instance, 40 days before the Special Rapporteur's visit to Kadugli, in Al-Salam camp next to Kadugli - with around 100 Christians - prayers and celebrations were allowed. A written permit had not yet been issued, and this situation characterizes all the camps in that area.

96. Around Kadugli, there are still Christian communities in areas such as Katcha, Shat, Umm Dorein, Tira Lumu, Heiban, Atoro, Tabanya, Angolo or Moro.

Between these areas, there is no contact at all, since a restriction of circulation is imposed for clergymen in these areas. Religious services are provided by catechists. In Kadugli, there are around 10,000 Christians (the total population according to ratio cards is 130,000). All of them go to the Catholic church to pray. Contacts are almost non-existent with the Sudanese Council of Churches, local sources told the Special Rapporteur.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

97. Since the adoption of resolution 1993/60 in March 1993, an increasing flow of information on the situation of human rights in the Sudan, originating from a wide variety of sources, has reached the Special Rapporteur. In addition, the Special Rapporteur paid a two-week visit to the Sudan, where he heard many testimonies and visited several locations of interest to his mandate. Further, he collected a significant amount of information during his visits to Kenya and Egypt. Careful examination of the information has shown a number of consistent elements in the reports and testimonies received. In many instances, allegations have been corroborated by first-hand information obtained from witnesses, many of whom came to meet the Special Rapporteur during his mission in the Sudan, despite their fear of reprisal.

98. On the basis of the information received, the Special Rapporteur has no hesitation to conclude that grave violations of human rights have taken place in the Sudan, including large numbers of extrajudicial killings, summary executions, enforced or involuntary disappearances, systematic torture and widespread arbitrary arrest of suspected opponents. In addition, it appears that several persons have been subjected to reprisal after they had communicated information to the Special Rapporteur. The Special Rapporteur concludes that serious human rights violations occur on a particularly large scale in the Nuba Mountains, where the Government seems to tolerate the policy pursued by local authorities of depopulating the area in the combat against SPLA. A significant component of this policy appears to be the forced relocation, sometimes the mass relocation, of the Nuba population.

99. The total amount of information received by the Special Rapporteur relates, however, to a wider range of violations, on which he will fully report to the Commission on Human Rights. In so far as the violations in the conflict zones are concerned, the Special Rapporteur notes that serious abuses have been committed by the two SPLA factions. As mentioned before, these abuses will be included in his next report. However, in view of the serious consequences of the armed conflict for civilians, the Special Rapporteur has found it necessary to refer in one recommendation to all parties involved in the conflict, and not only to the Government of the Sudan.

100. With regard to the situation of human rights in the Nuba Mountains, the Special Rapporteur, having carefully studied the information he has assembled in the form of reports, documents, oral and written testimonies, photographs and videotapes, expresses his serious concern over violations for which the Government of the Sudan bears responsibility. These violations committed by the Sudanese Army and the paramilitary forces under its control exceed by far the

derogations permitted under a state of emergency and seem to be of such a grave nature that the fate of the Nuba communities in the area may be questioned.

101. In the light of the above, the Special Rapporteur concludes that the seriousness of the human rights situation in the Sudan demands continuing and intensified monitoring. To this end, the Special Rapporteur would require unlimited access to all areas of concern and would need adequate resources to carry out his mandate. In addition, the situation should be monitored by national and international non-governmental human rights organizations. Immediate and thorough investigations should further be carried out by the Government of the Sudan. In this connection, the Special Rapporteur welcomes the recent establishment of the Higher Coordinating Council for Human Rights by the Government of the Sudan and the creation of an office to receive complaints from citizens on abuses by the security forces. The Special Rapporteur looks forward to receiving more detailed information on the terms of reference and the methods of work of the Council. At the same time, the Special Rapporteur hopes to receive a response from the Government to his letters dated 12 September and 6 October 1993 concerning specific cases referred to in section III, which thus far remain unanswered.

B. Recommendations

102. The Special Rapporteur recommends that:

(a) The Government of the Sudan abide by its human rights obligations under international law and that the Government further be urged to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) The Government of the Sudan ensure that its security forces, army, police forces, the Popular Defense Forces and other paramilitary or civil defence groups be properly trained and act in compliance with the standards set under international law, and that those responsible for violations be brought to justice;

(c) The Government of the Sudan give free access to regional and international humanitarian and human rights organizations throughout the country, in particular in the Nuba Mountains and the cities of southern Sudan;

(d) The Government of the Sudan complete, as soon as possible, the investigations into the events in Juba in June and July 1992 and that the report be made public;

(e) The Government of the Sudan carry out immediate investigations into the human rights violations reported in the Nuba Mountains and other Government-controlled areas in southern Sudan;

(f) The Government of the Sudan and the other parties involved in the armed conflict in central and southern Sudan be urged to cease immediately all attacks on civilians and to fully ensure access to food and health care to all those in need; to agree, as soon as possible, on a cease fire and to intensify their efforts to come to a peaceful solution; and, finally, to address the

problem of displacement and create appropriate conditions for displaced persons to return to their homelands.

Notes

1/ E/CN.4/1993/35.

APPENDIX

Note verbale dated 18 October 1993 from the Permanent Mission of the Republic of Sudan to the United Nations Centre for Human Rights at Geneva

The Permanent Mission of the Republic of Sudan to the United Nations Office and other international organizations at Geneva presents its compliments to the Centre for Human Rights and has the honour to convey that the Government of the Republic of the Sudan, in its quest to strengthen its declared policy of respect for human rights, undertook the following measures to monitor and safeguard the human rights of its citizens:

Firstly: the Higher Coordinating Council for Human Rights

The Council was established under the guidance and auspices of the head of State and is chaired by the Chairman of the Transitional National Assembly with the Minister of Justice as Rapporteur to the Council.

All relevant government and departments are represented in the Council, i.e. the Ministry for Foreign Affairs, the Attorney General's Chamber, the Security Forces, the Ministry of Internal Affairs, the three Commissioners for Refugees, Relief and Displaced, non-governmental organizations and the various Sudanese human rights groups.

An executive Committee of the Council was formed from representatives of the Ministry for Foreign Affairs, the Attorney General's Chamber and the Security Forces to run the daily and urgent tasks such as responding to any questions or complaints about human rights in the Sudan.

Secondly: The Government has already set up an office to receive any complaints by the citizens of any abuses by the Security Forces.

This office is currently assuming duties in a regular manner.

The Centre is kindly requested to include the above in the appropriate documentation for the forthcoming fiftieth session of the Commission on Human Rights.

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Agenda item 79
REVIEW OF THE IMPLEMENTATION OF THE
DECLARATION ON THE STRENGTHENING
OF INTERNATIONAL SECURITY

SECURITY COUNCIL
Forty-eighth year

Letter dated 15 November 1993 from the Chargé d'affaires a.i.
of the Permanent Mission of Yugoslavia to the United Nations
addressed to the Secretary-General

I have the honour to transmit herewith the Appeal to the Security Council for Humanity launched by the Holy Synod of the Serbian Orthodox Church at its extraordinary session, held at Centinje, from 31 October to 3 November 1993 (see annex).

I should be grateful if you would have the present letter and its annex circulated as an official document of the General Assembly, under agenda item 79, and of the Security Council.

(Signed) Dragomir DJOKIC
Ambassador
Chargé d'affaires a.i.

ANNEX

Appeal to the Security Council for Humanity, launched by the Holy Synod of the Serbian Orthodox Church at its extraordinary session, held at Cetinje from 31 October to 3 November 1993

At its extraordinary session, held at Cetinje in the Ostrog Monastery (Montenegro, the Federal Republic of Yugoslavia) from 31 October to 3 November 1993, the Holy Synod of the Serbian Orthodox Church launches the appeal to the Security Council and all competent figures, institutions and organizations of the international community immediately to abolish the economic sanctions, embargo and isolation of the Serbian people in the Federal Republic of Yugoslavia (Serbia and Montenegro), which are unprecedented in history. The comprehensive sanctions and embargo, as they are applied, including the raw materials for the production of medicaments, have turned a whole country into a large concentration camp or a ghetto, and an entire nation - from an unborn child to a man on his deathbed - has became prisoner.

The goods and products in the form of humanitarian assistance (primarily food and medicines) to the population whose existence has been threatened, are exempted from the embargo. Unfortunately, in practice, owing to the time-consuming procedures of the United Nations Sanctions Committee in granting approvals for the import of humanitarian help, and more so, owing to even more stringent application of the sanctions by certain States than envisaged by the Security Council in its resolutions and to the arbitrary and ill-disposed conduct of the border authorities, the foodstuffs and medicines often perish or never reach those whose life depend on them.

Today, all political decisions and the actions of the United Nations and the so-called international community invoke the defence of democracy and human rights. However, gentlemen and brethren, allow us, orthodox bishops, gentle shepherds of Christ's Church, to ask this question: what kind of humanism, democratic ideals and protection of human rights can justify measures which ruthlessly punish an entire nation and, within it, particularly affect the weakest and the innocent - children, the sick and the old - while at the same time failing to reach the culprits? Collective punishment implies the existence of conscious or subconscious belief in collective guilt. We believed that the ideas of collective guilt perished a long time ago, with Hitler and Stalin. Allow us one more question: can the esteemed statesmen who sign resolutions on tightening sanctions sleep well knowing that their signatures will bring not only widespread poverty and starvation to the poorest but also the death of infants in hospitals, immense suffering of mental patients and unbearable situations where doctors cannot help their patients because of the lack of medicaments and equipment?

Meanwhile, the powerful international institutions are turning a blind eye to arms smuggling and are seriously discussing the possibility of lifting the arms embargo for blood- and tear-soaked Bosnia and Herzegovina. Does it not seem like elevating mortals to the rank of masters of life and death of millions of human beings and consequently ascribing to the institutions of man the rights belonging to God alone?

On the basis of the present tragic experience of our people we have to testify before God and the people: such sanctions applied against any country or a people are immoral and inhumane. (It is not only by gun that you can kill a man or a nation. Crime against humanity is not committed only by arms.) Good intentions cannot be realized through evil methods. Our Church and all of us are truly grateful for any kind of humanitarian help from the world, but we cannot help asking this question: at the moment when an entire nation, owing to the errors of domestic and world politicians, is put in the pillory and deprived of any possibility to take care of itself, to live a normal life, to work and to create, doesn't this humanitarian help in itself appear to be an attempt to unburden the conscience and provide an excuse for the international community?

Therefore, if the Security Council is really guided by humanity, which is only natural, we then rightly expect humanity to be translated into action - concretely, in urgent lifting of the inhuman sanctions. Should that not be the case, God forbid, that would certainly undermine faith in the humanity of a new world order, which is being built on the ashes of the inhuman communism, and the human person and community would be ever more threatened.

The civilization devoid of spiritual meaning and true moral values inevitably becomes a source of inhumanity and leads humankind to chaos and hopelessness.

In the name of God and everlasting human dignity, we launch the appeal to humanity to each and every man!

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GENERAL DEBATE

Letter dated 15 November 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Yugoslavia to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I have the honour to convey the following reply of the Federal Republic of Yugoslavia to the statement made by the Minister of Foreign Affairs of the Republic of Albania, Mr. Alfred Serreqi, in the general debate at the forty-eighth regular session of the General Assembly, on 27 September 1993.

The statement of Minister Serreqi contains many untrue allegations and accusations against the Federal Republic of Yugoslavia, particularly Serbia and the Serbian people, which constitute a part of the continued anti-Yugoslav campaign of the Government of Albania. For the sake of truth, the Government of the Federal Republic of Yugoslavia wishes, therefore, to present the following facts relating to the allegations contained in the statement of the Albanian Foreign Minister.

We have to note that the Government of the Republic of Albania, despite the fact that it solemnly and fully assumed all the commitments and responsibilities contained in the documents of the United Nations and the Conference on Security and Cooperation in Europe (CSCE) and undertook to act in compliance with them (as declared in its letter of 18 June 1991 on its accession to the CSCE and full acceptance of the CSCE Final Act and the Charter of Paris), continues to act in contravention of the provisions of those documents, as evinced by the statement of Foreign Minister Serreqi.

In his statement, the Albanian Foreign Minister expressed his Government's commitment to the restoration of democracy in the Balkans and its inclusion into European integration processes, but he overlooked that, by calling for the change of borders and by inciting secession, by neglecting the minority rights in his country and by directly defying the international community, which considers Kosovo and Metohija an integral part of Serbia and the Federal Republic of Yugoslavia, he, in fact, was supporting destabilization and

separatism in the Balkans. We cannot disregard the fact that, today, Albania is the only country in Europe that openly incites and encourages the Albanian national minority in neighbouring countries to secession.

Allegation 1

> "We think that the breakup of the former Yugoslavia - which was also the cause of what is now called the Yugoslav crisis - puts the issue of succession in the former Yugoslav federation in an entirely new light: it brings up the question of considering the peoples' right of self-determination, and the expression of their free will as to their political status. If this means war, as some people think, then it is up to the United Nations and the Security Council to intervene and guarantee respect for the principles of the Charter."

This part of Minister Serreqi's statement deserves a special comment. Albania's attempts to use the Yugoslav crisis, caused, as is known, by the forcible secession of some former Yugoslav republics, for an overt or covert legitimization of the secession of Kosovo and Metohija are very evident indeed. In this context, it should be openly said that what this amounts to is the intention to use the Yugoslav crisis as a point of departure and a pretext for re-drawing the borders of the Balkan States, thereby calling into question not only the territorial integrity of the Federal Republic of Yugoslavia, but also that of other neighbouring States.

Similarly, it should also be noted that owing to the "breakup of the former Yugoslavia", "the issue of succession in the former Yugoslav federation" is not at all put in an entirely new light nor can it be linked to the status of the Albanian national minority. The Albanian national minority in Yugoslavia has never had the status of a constituent people nor, consequently, the right to self-determination. It has always had the status of a national minority in Serbia, which, after the secession of other republics, remained in the Federal Republic of Yugoslavia together with Montenegro. Therefore, the "breakup" of the former Yugoslavia has not threatened the individual or collective rights of the Albanian citizens deriving from their status as a national minority.

The Albanian Foreign Minister speaks of war and calls for Security Council intervention. In this connection, it is very much in order to ask what War Minister Serreqi has in mind, who would provoke it, in whose interest it would be waged and for what purpose it would be fought. It is logical to assume that it could break out only if Albanian separatists in Kosovo and Metohija, supported by Albania, decided to secede forcibly, so that it is very pertinent to ask whether the Albanian Foreign Minister had such circumstances in mind. In this context, it is equally pertinent to ask what purpose is served by calls for stationing foreign troops and observers in Kosovo and Metohija and for placing this province under United Nations protectorate, that is, for deploying "peace-keeping forces". It is our impression that the Government of the Republic of Albania would like to abuse their presence to achieve the said goals.

The right to self-determination, as is known, cannot be recognized to a national minority, which is exactly what Albanians are in Yugoslavia. Albania's invocation of the Charter of the United Nations and the CSCE principles in this

connection constitutes a gross violation of the norms of international law, since they do not provide for the right of national minorities to self-determination. Behind this demand is open support to secession and an (unsuccessful) attempt to legalize it.

Allegation 2

> "If, in assessing this factor [i.e. the Albanian factor ... especially the Kosovo issue], there is insistence on the rigid position that Kosovo is an integral part of Serbia, that it is annexed to Serbia and that the Albanian people in the former Yugoslavia are a minority, then nothing will be achieved, but the idea of creating a "Greater Serbia" will be reconfirmed and legitimized at the expense of other peoples."

It is a historic fact that the Province of Kosovo and Metohija is the cradle of the Serbian medieval State and culture and the Serbian Orthodox Church. It is also a historic fact that the province has never belonged to the Albanian State and that it has always been an integral part of the territory of the Serbian State, except in the period when it was under foreign occupation, first by the Turks and then in this century by Fascists (1941-1945). Therefore, the allegation that Kosovo was "annexed" is absurd, just as Albania's persistence in refusing to call the province by its official (constitutional) name of Kosovo and Metohija is also absurd.

The statement of Minister Serreqi provides clear evidence that the Government of the Republic of Albania does not respect the territorial integrity of the Federal Republic of Yugoslavia and the Republic of Serbia, an integral part of which is Kosovo and Metohija. Contrary to all international norms, the Government of Albania was the only Government in the world to recognize, in 1991 and 1992, the illegal "Republic of Kosovo". Albania defies the well known position of the international community that Kosovo and Metohija is an inseparable part of Serbia and Yugoslavia.

Albanians in Yugoslavia are, as already mentioned, a national minority under the provisions of all past Yugoslavian constitutions and relevant international instruments. Albanians in Kosovo and Metohija account for 82.2 per cent of the population of the province and 17.2 per cent of the population of the Republic of Serbia. Until not so long ago, the Serb population in the province constituted the majority, but after the Second World War this ratio was changed to its detriment as a result of the ethnic cleansing by Albanian separatists.

National minorities in Yugoslavia and Serbia, including Albanians, have a broad autonomy guaranteed by the constitution, as well as all national, political, economic, social and cultural rights, like other Yugoslav citizens.

Allegation 3

> "We are profoundly concerned about the issue of Kosovo and the grave situation created there since the elimination of its autonomy in 1989 and its complete annexation and subjection to Serbian military and police authority, and we call for proper attention to the fact that a peaceful

settlement of the Yugoslav crisis should cover the entire space of the former Yugoslavia and all its aspects and problems."

It is not true that the autonomy of Kosovo and Metohija was eliminated by the 1989 constitutional changes. The new constitution of the Republic of Serbia was adopted in 1990, with the approval of all relevant political factors in Serbia and Yugoslavia, including the provincial assembly of Kosovo and Metohija, where representatives of the Albanian minority constituted the majority. The autonomy of the provinces of Kosovo and Metohija and Vojvodina was also confirmed by the new constitution, so that their status as autonomous provinces was not threatened at all. Only parastatal attributes given to the province by the previous constitution were taken from the present status of Kosovo and Metohija, but even under the provisions of that constitution it was an integral part of the Republic of Serbia.

The real problem in Kosovo and Metohija lies in the fact that the Albanian national minority, under the pressure of the separatist leadership, refuses to use its constitutional rights (non-participation in parliamentary multi-party elections, refusal to participate in the last census, boycott of the education system, health and so on).

In view of the fact that Kosovo and Metohija is an integral part of the Republic of Serbia and the Federal Republic of Yugoslavia, it is quite understandable that military and police authorities are present in the province, just as is the case in any other State. It is absurd and senseless to talk about an occupation of Kosovo and Metohija, since no country can occupy a part of its own territory. The part of the army of Yugoslavia stationed in Kosovo and Metohija has the same task it has in other parts of the Federal Republic of Yugoslavia.

The situation in Kosovo and Metohija is not good, since Albanian separatists resort ever more frequently to terrorist acts. In the first nine months of this year, there were 52 attacks against police officers. In the action of seizing arms from members of the Albanian national minority, which they called "police repression", a large number of illegal weapons was impounded (100 automatic and semi-automatic rifles, over 800 rifles, 1,450 pistols and revolvers, 156 bombs and so on).

Allegation 4

"Albania has long made it clear that placing Kosovo under the control and protection of the United Nations is the only guaranteed way of preventing conflict and discouraging silent 'ethnic cleansing' that Serbia is practising there."

The role and activities of the United Nations with respect to its Member States are clearly defined in its Charter and cannot be carried out in a manner desired and suggested by Albania for Kosovo and Metohija. The role of the United Nations should be manifested in the clear division between the problems of human rights and the illegal requests of the Albanian national minority for the secession of Kosovo and Metohija from Serbia and the Federal Republic of Yugoslavia. The best contribution of the international community to the improvement of the situation in Kosovo and Metohija would be to use its

influence in a most vigorous way to persuade the representatives of the Albanian national minority to abandon their goals as illegitimate under international law. Instead of calling for the protection of the United Nations, the international community should call upon the Albanian national minority to take part in the political life of the Federal Republic of Yugoslavia and thus to exercise their rights.

Each and every involvement of the United Nations and the international community in Kosovo and Metohija should be based on the fact that the Autonomous Province of Kosovo and Metohija is an integral and inseparable part of the Republic of Serbia and the Federal Republic of Yugoslavia and that disregard for this fact is a gross violation of the principle of the Charter of the United Nations concerning respect for the territorial integrity and non-interference in internal affairs of sovereign States.

Allegation 5

> "The protection and observance of human rights, [constitute] one of the fundamental issues of the new world democratic order today ... [The Albanian] Government considers support for democracy and human rights to be the guide of its political orientation ... We consider respect for minority rights to be an important and indivisible aspect of human rights."

The Yugoslav Government would appreciate it if Albania complied with this principled policy it has opted for. However, the Yugoslav Government must stress the highly unsatisfactory position of Yugoslav (and other) minorities in Albania. First, Albania denies the existence of dozens of thousands of members of the Serb and Montenegrin minorities. Secondly, members of the Yugoslav minorities have no right to use their mother tongue, they have no schools, textbooks, newspapers or cultural institutions in their language. Third, the Orthodox Church and the use of Slav names have been banned for years, so that denationalization has also been practised in this way. As of late, the situation has improved since the use of Slav personal names has been allowed as well as the establishment of Yugoslav minority associations and a free flow of people on both sides of the border. However, this is all far from the broad rights given to the Albanian national minority in Yugoslavia and international standards relating to minority rights.

Because of its policy towards minorities, Albania, as is known, also has problems with other States, which is evidenced by the appeals of the European Parliament addressed to Albania and the proposal of former Greek Prime Minister Mitzotakis to the effect that Albania provide the same rights to national minorities in Albania it demands for "its" minority in Yugoslavia.

Allegation 6

> "The imposition of sanctions, despite the effect on the Serbian economy ... failed to paralyse and seriously damage the Serbian war machine. ... But we understand that the United Nations sanctions ... will continue to be applied ... until a final solution of the whole Yugoslav crisis is found, including an overall improvement of the situation in Kosovo."

The Yugoslav Government is surprised at the fact that, rather than calling for easing the sanctions, which affect both the citizens of the Federal Republic of Yugoslavia and Albania itself, the Republic of Albania is demanding the tightening of sanctions against Serbia, which implies further exacerbation of the economic and social position of the Albanian national minority in the Federal Republic of Yugoslavia as well.

It is known that the sanctions against the Federal Republic of Yugoslavia were imposed by Security Council resolution 757 (1992) because of the war in Bosnia and Herzegovina and the alleged responsibility of Yugoslavia for it and resolution 820 (1993) because of the rejection of the Vance-Owen plan, which Yugoslavia accepted and which subsequently was rejected by the international community as outdated.

The international community has recognized that a civil war is being fought in Bosnia and Herzegovina and that the Federal Republic of Yugoslavia has done and is doing everything to achieve peace in Bosnia and Herzegovina, which is best evidenced by the fact that the Bosnian Serbs have accepted the Geneva peace plan. The sanctions do not pertain to other elements of the Yugoslav crisis, including Kosovo and Metohija, so that the Government of the Federal Republic of Yugoslavia considers that all conditions have been created for their lifting.

Allegation 7

> "As to the national question of the Albanians, we see its solution in the creation in the former Yugoslavia and all over the Balkans of a broad democratic space that would allow freedom of communication and freedom of movement among the more than 7 million Albanians who live, in territorial continuity, in that space. We are against territorial fragmentation and division, and the hermetic sealing of a single people within the borders of neighbouring countries."

This allegation reveals the main goal of the Albanian nationalist policy: creation of conditions for the annexation to Albania of the territories belonging to other States - the Federal Republic of Yugoslavia, Greece and the former Yugoslav Republic of Macedonia. Albanian leaders, therefore, often claim at international gatherings that they speak on behalf of "all 7 million Albanians".

Albania also tries to minimize the existence of the international border with Yugoslavia, encourages border incidents and pursues the policy of intensifying border tension, thus destabilizing the situation in Kosovo and Metohija and the Balkan region. This year, 49 incidents took place on the Yugoslav-Albanian border and the Albanian side is responsible for 45 of them. Because of its policy vis-à-vis state borders, Albania has serious problems and disputes with other neighbouring States as well.

The positions presented by the Albanian Foreign Minister constitute flagrant interference in the internal affairs of the Federal Republic of Yugoslavia and a denial of its territorial integrity and sovereignty, and incites the secession of Kosovo and Metohija from Yugoslavia and the Republic of Serbia. Such conduct is in contravention of the Charter of the United Nations,

the CSCE Helsinki Final Act and the Charter of Paris, which the Government of Albania professes to observe, but does so only in word, not in deed.

Such positions are far from contributing to the normalization of relations between the Federal Republic of Yugoslavia and the Republic of Albania. For its part, the Federal Republic of Yugoslavia wishes to maintain good relations with all its neighbours, including Albania, but will oppose, most vigorously, any interference in its internal affairs, particularly through attempts to threaten its territorial integrity.

I should be grateful if you would have the present letter circulated as a document of the General Assembly under agenda item 9.

(Signed) Dragomir DJOKIĆ
Ambassador
Chargé d'affaires a.i.

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GENERAL ASSEMBLY
Forty-eighth session
Agenda item 113
REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS

SECURITY COUNCIL
Forty-eighth year

Letter dated 15 November 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

I have the honour to inform you that the situation of the refugees and displaced persons in Azerbaijan has reached a critical point. As a result of the intensified offensive by Armenia in the south-west of Azerbaijan, thousands of new refugees and displaced persons have been fleeing from fighting. According to a report published by Reuters on 9 November 1993, Azerbaijan is no longer able to cope with this massive tragedy.

It is estimated that over 37,000 people have fled their homes since 1 November as reported by Reuters, and they have added to the 1 million already displaced from the territory occupied by Armenian armed forces, amounting to 20 per cent of the Azerbaijani Republic. Many of the refugees were forced to cross the Araks River into the Islamic Republic of Iran. Others were settled in an overcrowded refugee camp in the district of Imisli in Azerbaijan, which already houses more than 15,000 people.

It is feared that thousands more will suffer the same fate as Armenian attacks on Azerbaijan continue. There is a desperate need for shelter and food, and authorities in Azerbaijan are appealing for foreign aid to help the refugees survive the winter.

The authorities have been battling against all odds since 1988, when the war began, and have managed to provide for the basic needs of civilians, even though they were faced with an economy in ruins and political upheaval. But, as Kaiser Zaman, Deputy Chief of Mission for the Office of the United Nations High Commissioner for Refugees (UNHCR), was quoted as having said "What the Azeris have done is amazing, but they have probably reached the limit".

On 7 and 8 November, other foreign news agencies reported that Armenian forces were using the same scorched-earth policy in the newly occupied territories of Azerbaijan as was used earlier in other offensives in other parts of Azerbaijan. The agencies reported that since 6 November fires could be seen along the Iranian-Azerbaijani borders stretching from the Azeri towns of Khoda Afarin to Aslanduz. Armenian forces have previously been accused of setting fires to buildings, cities and, in some cases, even forests.

Political observers believe that the Armenian forces' scorched-earth policy is further complicating the Karabakh conflict and making it difficult to reach a solution. Although the extensive destruction caused by the war cannot be reversed overnight, a political solution to the Karabakh conflict would make it possible for Azeri refugees to return to their homes. Even if a political solution is achieved, however, the effects of a scorched-earth policy will ensure that these areas will not be inhabitable for many years.

I would be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda item 113, and of the Security Council.

(Signed) Yashar ALIYEV
Counsellor
Chargé d'affaires

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RETURNEES AND DISPLACED PERSONS
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SECURITY COUNCIL
Forty-eighth year

Letter dated 16 November 1993 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General

It is with grave concern that I inform you of the emergency humanitarian situation in my country.

The plight of the refugees in the Azerbaijani Republic is worsening. A severe winter is expected to lead to great hardships, and, unless drastic action is taken, it will threaten the lives of the thousands of people who are fleeing the recent Armenian offensives.

Already snow has fallen throughout the country and temperatures have reached the freezing point. The early arrival of winter will have particularly catastrophic consequences for thousands of refugees from the territories occupied by Armenia who are living in tents set up in refugee camps in the districts of Imishli, Beylagan and Agjabedi. The freezing weather will inevitably lead to the spread of chronic diseases and will expose the children and elderly to frostbite.

The refugee crisis is also creating problems that affect everyday life in the whole of the country. For most Azeri students the academic year has not started yet because school buildings are being used to provide shelter for the homeless. Institutes of higher education have also been affected; classes have been cancelled and auditoriums have been filled with folding beds for the refugees.

It is also increasingly difficult to maintain the heating and electricity supplies in the country. While electricity is now regularly cut off in Baku, it is feared that central heating will be in short supply in the coming year. These shortages will exacerbate complications resulting from the influx of refugees and will render authorities in Azerbaijan even more helpless to deal with the crisis.

I would be grateful if you could have the present letter urgently circulated as a document of the General Assembly, under agenda item 113, and of the Security Council.

(Signed) Yashar T. ALIYEV
Counsellor
Chargé d'affaires a.i.